

EMINENT DOMAIN TASK FORCE

**JEFFERSON CITY, MISSOURI
AUGUST 18, 2005**

MEMBERS PRESENT:

Terry M. Jarrett
Chris Goodson
Gerard Carmody
Senator Chuck Gross
Representative Steve Hobbs
Spencer Thomson (via phone)
Leslie Holloway
Lewis Mills
Howard Wright

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(At a hearing of the Eminent Domain Task Force, August 18, 2005, in Jefferson City, Missouri, with Terry Jarrett presiding, the following proceedings were had):

TERRY JARRETT: Good morning, everyone. We'll get started. Today's Thursday, August 18, 2005. It's a little bit after 10:00 a.m. and pursuant to the public notice previously posted, I call this meeting of the Governor's Eminent Domain Task Force to order.

Sherry, will you please call the roll?

SHERRY FISHER: Terry Jarrett, here; Chris Goodson, here; Gerard Carmody, here; Chuck Gross, here; Steve Hobbs, here; Spencer Thompson; here, Leslie Holloway, Lewis Mills, here; Howard Wright, here.

JARRETT: Thank you, Sherry. Leslie Holloway, I believe, is at the state fair this morning but will be here a little bit later.

The next item on the agenda is the minutes of the previous meeting. Staff has previously circulated those. There's also a copy of the August 4 meeting minutes in your packets. Hope you've had a chance to review those. Are there any additions or corrections that anybody has? If not, do I hear a motion for approval? Motion seconded. All those in favor say, aye. All those opposed say nay. The ayes have it. The minutes are adopted and they'll be posted on our web site.

I have just a few announcements before we get to the main purpose of our meeting. First I want to make sure that everybody is aware of our task force web site. It is on the Missouri State Government Home Page. There's a link there. Go to www.mo.gov and you can see what we're doing. See our meeting schedules. Minutes will be posted there. All of our public notices will be posted there. And also there is a way for you to email us comments and testimony. I understand earlier this week there was some problems with that but I know our IT staff has been working on that and hopefully those issues have been resolved. So use the email to send us comments.

Second in your packets is some information that Senator Gross had provided. Senator Gross, do you have any comments you want to make on those?

SENATOR GROSS: No. It's just information that my staff has put together on what various states have been doing in regard to eminent domain. I think all of them since the Supreme Court decision, maybe some stuff prior to that.

JARRETT: Great. Well, this is very helpful. Thanks to you and your staff, Senator Gross, for that.

Next on the agenda is the public hearing. Testimony at this public hearing will be an important part of information gathering for our task force. Public participation is essential for us to develop the best recommendations for our report to Governor Blunt.

To everyone here today. Thanks for attending. We appreciate you being here. About 30, 45 minutes prior to the meeting, we made available a sign-in sheet for everyone that wants to testify. If those that are interested in testifying have not signed up, the table just outside the room, there should still be a sign-up sheet out there. Please put your name on the list. We want everybody that wants to testify to have the opportunity to do so. Presenters will be recognized in order according to the sign-up sheet. Given the large numbers of folks who are interested in testifying and in order to make sure that everybody that gets a chance gets an opportunity, oral presentations will be limited to five minutes. You may provide written comments and backup material with your presentation.

This hearing is also being recorded by Senate staff. Thank you to the Senate for providing that to us and a transcript will be prepared that we will make available to the public and also on our web site.

In addition, we will create an appendix for all the written materials and all of the backup

materials and will make those available as well. The appendix will include the written materials we received today and also those that we've received by fax or email on our web page. Let me stress that all information submitted, whether oral or written, will be considered by this task force.

For everyone desiring to make public statements, please be concise and courteous to the other speakers. We have a lot of people who want to be heard. So everyone's cooperation is essential. If some of you are here with organizations, please designate a representative to testify on behalf of the group so that we don't get too much repetition. Let me assure you that everybody's viewpoints are important to us and we want to hear all of them so that we can do a good job on this task force.

When you're called, please come forward to the witness table, sit down, and identify yourself, speak into the microphone. The recorders will need you to do that so they can record your testimony properly. There's also a witness sign-in sheet that is available at the desk. Please fill that out and hand it over to the Senate staff so that they can keep a proper record of who has testified.

There are a couple of people that are going to be testifying this morning that need to get out. They are in from out of town and they need to get back out. So we're going to have a couple of those testify first.

The first one is Barbara Geisman, who is the deputy mayor for development of St. Louis. Barbara.

BARBARA GEISMAN: Thank you, Chairman and committee members..

First, I would like to take this opportunity to thank you all for giving us the opportunity to testify this morning and I am with the city of St. Louis. I am the executive director for development and the deputy mayor and my message this morning is how important eminent domain is to our ability to revitalize the city.

Mayor Slay's vision for the city that all of his staff share and, I think, most of the people who live in the city share, is that we can be a great city where more people choose to live, more people choose to work, where physical and cultural diversity are highly valued and that we can be, some day, but not any time in my lifetime, probably, self-sufficient.

Key to all of that is, first of all, having great dreams and then getting to work to make them happen. Key things in business development are providing competitive sites in order to build the city's real estate market and that is also key in residential development. We also need to build our financial capacity and we need to seek private investment and build on the private sector's capacity and strength. We also value our public sector partnerships with you all and everyone else in the region and in the state and with the federal government.

I want to take two seconds here and explain — or point out a couple of facts on how important the city is to the state of Missouri. First of all, that little bitty city in the middle of the St. Louis region is home to 223,000 jobs which is 8.3 percent of Missouri's jobs. We're also home to 5 percent of Missouri's businesses. Close to 12 percent of Missouri's wages. We have 13.5 million square feet of occupied class A and B office space in downtown and we are the center of a region with 2.5 million people.

Residential development-wise, over the last four years, over 11,400 new and substantially rehabilitated homes have been created. Our population is increasing for the first time in five decades. Our property values over the last four years were up an average of 54 percent and we are building a variety of housing types within the city. These include affordable and luxury, historic and new construction, single and multi-family, and rental and owner-occupied.

How do we use eminent domain in order to address our goals? The first piece of the answer

is very sparingly. As those of you who work with eminent domain know, it is very expensive. It is very unpredictable. It is very time consuming, and over the last five years, I believe, we've filed approximately 40 cases.

And so, obviously, the ideal way to assemble property for development is to do it voluntarily. However, there are situations where, as a last resort, the only way to complete site assembly on a sizeable development at a semi-reasonable price is to use eminent domain and in a majority of cases settlement is achieved prior to the court outcome.

Secondly, or thirdly, rather, we need eminent domain as a way to get people to the table to negotiate when we're trying to assemble a site. This map on the right, here, shows city owned and vacate property and it's a little hard to see so I'm going to blow it up a little bit. But the green stuff is stuff that the city of St. Louis has taken title to through its land utilization authority because no one else want it. Somebody didn't pay their property taxes, the property went up for sale on the courthouse steps and nobody bid on it so we end up with the property and that property numbers somewhere in the neighborhood of 10,000 parcels.

The purple stuff is stuff around that property that has been abandoned and vacant and vandalized and as you can see, these are all these little bitty parcels, for the most part, that it is virtually impossible to do anything with unless you can assemble a sizeable site.

I'm going to take a minute now and go through the reasons why we use eminent domain and how we do it. One major reason is to eliminate neighborhood problems that ruin our neighborhoods; absentee owners, slum lords, people who are basically sitting out there in a whole other city and are taking advantage of the city of St. Louis by letting property become abandoned and derelict and driving the neighbors crazy and also providing havens for criminals.

So these are some examples of things that have been acquired and rehabilitated over the last couple of years. One of them is in Dick Gregory Place in Greaterville the other is in Fox Park.

Here's some other examples and, you can't see them all very well, the kind of things we deal with every day. That's the property where the whole front wall has collapsed and the owner never maintained it, never did anything to it. This is a property where there was a fire and so the roof has collapsed; an old gas station; an old house on Enright; an old house next to our Schnucks on Union and Natural Bridge and etcetera.

So these are the kind of problems that if the owner continues to pay the property taxes and won't sell the property, we need eminent domain to rid our neighborhoods of these kinds of problems.

Next, we use eminent domain for neighborhood development. And none of these developments shown here would have been possible without the availability and/or use of eminent domain. These include Botanical Heights, where a neighborhood that had the highest murder rate in the city of St. Louis when the initiative began is now award winning homes. Gas Light Square that foundered and festered for years, Salisbury Place up on the north side, all of these things are developments that would not have been possible without eminent domain and that's because we need to be able to assemble large sites that can be reconfigured as new neighborhoods so that people who want new homes in the city of a style, single family, can have a place to buy them.

JARRETT: Thank you, Barbara. If I could just interrupt. Could you wrap up in a few seconds for me, please?

GEISMAN: Sure. Real quick.

Okay. This is Greaterville. We had these owners on one property. That's the property right

there. Sixteen people owned it. They were heirs of somebody. They couldn't agree on anything. In this whole development, in this whole block after we acquired everything else, we needed to get that one property and eminent domain was the only way.

These are commercial developments that, again, would not have been possible without the use of eminent domain because we have few modern size retail sites in the city. We need retail to provide services for our neighborhoods and generate tax revenue. Examples of that are the Loughborough Commons where the old vacant Nordyne Plant, in a flood plane, was sitting there and Desco has come in and there doing a Lowe's, a Schnuck's and other retail. Again, there's one home there that is in the eminent domain process and that one home under these little parcels up here, we're pursuing eminent domain with that so we can get the tax revenues and the services Lowe's will bring.

Bottle district similar north of the Convention Center. Again, one property that eminent domain is needed on.

Industrial development, we've got the CORTEX Life Sciences Project that already is producing a new building that is generating jobs and tax revenue. We have our north riverfront area where blight like this junkyard plagues the area and inhibits our ability to assemble sites and we have nonprofit developers like Herbert Hoover, and they really aren't developers, they're service providers, where the old Carter Carburetor Plant fraught with pcb's is sitting right next to this center that kids use every day and we're going to need eminent domain to get that health and safety hazard — similarly, people's clinic is right next door to this eye sore that, again, is a bad influence in the neighborhood and inhibits people's clinics ability to do things for people.

In summary, we use eminent domain to keep making progress. We use it to address

neighborhood problems. We use it to address title problems, like that estate ownership situation where there is no way you're going to get 16 grandkids to agree on anything and if we want that one last property to get that development, we have to use it. We use it to assemble large development sites because you can't rebuild a city in the 25 foot lots that most of the city was originally platted at. And in very rare cases, we use it to acquire a non-problem property that is sitting in the middle of a blighted area and is critical to a larger economic development initiative that addresses other problems. We can't let one owner stop a project that is wanted and needed by the rest of the city.

This is our new city wide land use plan. The first since 1947. And as we proceed to implement that plan, we are not going to use eminent domain every day or exhaustively, but we need that tool to keep going.

So in summary, it's an important tool in our progress. We are making great progress. Thanks in large part to the state of Missouri, people in the Legislature, people in the Governor's office, and we are making the city a place where people want to live, work, and play. And we can't continue this progress unless we have eminent domain available to help us address our problems.

Thank you for this opportunity and thank you for your help.

JARRETT: Thank you, Barbara. And I hope you'll make your presentation available to us so we can put that in the record as well. And don't forget the witness statement there.

GEISMAN: Sure. Thank you very much.

JARRETT: Next we have attorney Jerry Wallach with Stan Wallach. The task force will remember Stan from his great presentation last week on the overview of eminent domain law and his dad asked to come forward and speak briefly as well. Welcome, gentlemen.

JERRY WALLACH: Members of the commission, thanks for the opportunity to address

you on very, very important significant issues of eminent domain that have been called to the public attention, predominately through the Kelo Decision of the United States Supreme Court, but for those of us who practice in this area, these concerns have lingered for some time.

In the interest of brevity — first of all, I am Jerry Wallach. I practice with the Wallach Law Firm as Chairman Jarrett noted. And our practice involves representing owners in eminent domain situations, in taking situations.

There are three points I'd like to make. There are actually 50 or 60 points I'd like to make, but in the interest of time, I have tried to narrow it down to three observations that I think may be helpful to this committee and its deliberations and recommendations.

The first of those was touched on by the first speaker and that is the issue of blight and I think blight being step one in Missouri towards the taking process for redevelopment purposes, blight needs to be looked at very carefully. I agree with the previously speaker that in many, many instances redevelopment authority is necessary, helpful, and beneficial and that's why the legislature created it in the first instance. But like many good things, it has gotten out of control. I don't think it was ever intended that blight would run rampant as a concept, not as a reality. In other words, if you look up the dictionary definition of blight and compare the common usage of the word blight, to what we see in practice as blighting, we see two entirely different things.

I suggest as a solution to that, where blighting is utilized simply for the purpose of taking from one private owner to give it to another private owner because some legislative body in some city has made a determination that the city will be better off if the big box owns it as opposed to mom and pop owning it. That blight concept has to be subjected to some form of review. It cannot continued unfettered and unrestrained. And that review necessarily, there's no other place to go,

should be some form of judicial review with standards established as to what blight is. So that blight as utilized by municipalities comes into line with the common usage of the term blight. There is no relationship between those two terms under the existing law. That, first and foremost, is my concern.

Secondly, making the assumption that blighting has occurred and the process is put into play, eminent domain has begun. There should be some consequence to the condemning authority resulting from an inadequate offer. There was some attempt at legislation in this regard several years ago there should be some consequence. In other words, if the condemning authority makes a paltry low-ball offer, which they frequently do, and a jury or some determine or a fact subsequently comes in with a substantially higher offer proving them wrong, then the city or the condemning authority should eat the attorney's fees. And the city or the condemning authority should eat the expenses of the litigation including expert witness fees. Those things are terribly burdensome on the landowner and there should be some method of reconciling that and that can be addressed through appropriate legislation.

And the third item I wish to address is perhaps somewhat more esoteric to the attorneys among us and that is within the actual trial itself, so I've progressed from blighting through offer, and within the trial itself, on the merits, before a jury, the issue in Missouri is a somewhat bizarre rule that's been enforced by Missouri Courts for a long time, that says in a partial taking condemnation case, the income approach to value cannot be considered. We just went through a week long trial where we fought over a lot of money where this issue loomed large.

Because a rule is less than clearly understandable, it is inconsistently applied by trial judges. Every appraiser recognizes the income approach to value; the federal courts do, the bankruptcy courts do, the Missouri State Tax Commission does, all probate courts in this state do. But trial

lawyers in condemnation cases and partial taking cases may not present, or depending on the trial judge, may present in part, or some small measure of the income approach. It is terribly inconsistently — that applied — and that is something that this commission could take a look at. We would be happy to lend whatever expertise or support we could in the future if you need more help on this thing. We'd be happy to share more thoughts with you, given the constraints of time, we can't.

I'll say that Mr. Carmody, a member of your commission, advanced this problem. Made a quantum advance in the court system in Missouri with the Jim Lynch Toyota case where at least some economic recognition could be made. But the straight income approach to value cannot be utilized.

So those are my three important considerations. Re-look at blight, please. Look at the consequences of an inadequate offer and then, at least speaking to the attorneys among us, consider, and the appraisers among us, some reform, by legislation, granting the courts the power, and almost directing the courts to accept the income approach to value in partial taking cases.

So having said that, I thank you very, very much and I applaud you for the very solid work you're doing and I wish you the best of luck. And, as always, we stand ready to lend whatever help we might be able to lend.

JARRETT: Thank you, Jerry. Stan, do you just have a few brief

STAN WALLACH: I do, Mr. Chairman, thank you. It was an honor to appear two weeks ago. I did so at that time wearing the hat of the chairman of the Eminent Domain Committee of the Missouri Bar and did not express any personal views. I am here today in my individual capacity. I do have a couple points.

One is I agree wholeheartedly with the other Mr. Wallach on the judicial review issue. This came up in my discussion two weeks ago. It is very problematic. We have an article of the Missouri Constitution, Article 1, Section 28, that seems to unequivocally require it meaningful judicial review without deference to a local legislative determination of public use.

But as I discussed two weeks ago, that evolved through the Dalton Case and the U.S. Steel Case in light of the amendment to the Constitution in 1945 which brought the concept of blight into our constitutional framework. I think it may require a constitutional amendment to set that matter straight. It could be done through the courts. I think that's unlikely given the respect for stare decisis and the amount of case law that's developed on it. It could possibly be done by statute. But because it evolved in the jurisprudence looking at two different, particularly, in that Dalton Case and the U.S. Steel Case, balancing two different constitutional provisions, it is a very weighty matter indeed to try to address that.

The other two points I addressed briefly two weeks ago. There should be uniform relocation assistance. Anybody condemned in Missouri and displaced from their business or home or farm should get exactly the same relocation benefits that they would if it were a federal highway project and shouldn't be at the whim of varying degrees of relocation.

And occasionally, as I mentioned a couple of weeks ago, a condemning entity will actually claim they're exempt from having to pay any relocation and the commission, or the task force, rather, may want to consider recommending some uniform standards on offers; on the manner in which offers are made; on the manner in which they're backed up by any appraisal. MoDOT uses a certain format with something they call almost a mini-appraisal so that there is some basis for the offer. And I mentioned this because, particularly, in the economically development cases, you see a wide

range of behaviors in the offer stage, depending on the developer involved or the entity involved. Some of them come in and will offer much over what the value of the property would be in its current use, 150 percent if it's a residential case, because they are then going to then turn it into a commercial ground. Others will low-ball. And that's seems to be inconsistent and unfair if applied throughout the state of Missouri because one property owner may be subjected to condemnation on one part of the state by a certain developer and receive vastly different treatment in the name of the sovereign, in the name of the state than they would elsewhere.

So those are my three comments. I thank you again and, as my father did, offer my services and assistance however we may be able to help.

JARRETT: Great. Thank you, Stan. Are there any questions?

CARMODY: Yes. Thanks to both of you for coming and once again the Wallach Firm and the Wallach family have acquitted themselves well before the task force. And I know how hard it is to take time — thanks to the Wallachs and thanks for another great job and I hesitate to ask who's minding the shop. I know Mrs. Wallach is there behind you so I don't know who that would be.

But let me ask either one of you this question. We're not a legislative body, obviously, but what we may end up doing is recommending some form of legislation to the governor, and let me ask you this: With respect at least, Jerry, to two of the main points you raised and I think Stan touched on this also, that is judicial review of blight and the income approach, the utility of the income approach at trial, are those two issues that you think legislation can constitutionally address, or because of the separation of the legislative and judicial branches, is that something that we can't ultimately legislate?

JERRY WALLCH: Taking the second part if I may, Mr. Carmody, taking the second part

of the question first, I believe by legislation you can provide for various rules of court. And I think, particularly, if you address the income approach to be utilized in all cases, or maybe utilized when appropriate in all cases, I think that can be done by legislation. I don't think you have to go back to the courts to get them to re-reform it. I think the legislature may issue that edict in effect in legislative form.

CARMODY: How about defining of blight?

JERRY WALLACH: The blight issue as the other Mr. Wallach addressed is intertwined with some constitutional issues but I believe since the blighting authority on the redevelopment authorities has been established by statute. I think the reform can be included within the statute. I think it can be reformed. And it absolutely has to be. Whether it's done on a constitutional basis, which is a much bigger job as we know than on a legislative basis. But I think it can be done on a legislative basis if it's in the same redevelopment package.

Incidentally, Mr. Carmody, I might add, since you recognized my wife, today is our forty-third wedding anniversary and I can't think of a better way to spend it than to be with you folks.

CARMODY: She may have a better way to spend it.

JARRETT: Great. Well, thank you gentlemen. Appreciate your interest. And I would be remiss if I didn't go back and ask if there were any questions for Deputy Mayor Geisman.

Yes?

HOBBS: Is that working? Okay. While I've got you all here, one of the issues that we worked through in my legislation the last couple of years is we looked at a legacy clause. One of the situations we see is where any time condemnation is used, you have situations where, in Missouri, we have century farms that have been passed down from generation to generation or you take the

instance of a World War II vet that came home through the GI Bill. Got married. Him and his wife bought a house. He's passed on now. She's living in the home and there is no way they'd want to sell that home. That's their legacy. And we don't have any mechanism in the state right now to recognize the value of that home. How do you put a dollar value on that? And that's something I'd very much like to see done and it's a very contentious issue. It's also very difficult. How do you put a value on that? And I would like to enlist your all's help into working through something of a legacy clause if we can add to this.

JERRY WALLACH: We'd be delighted. We've had those cases. We've had family farms that have been in the same family since the Civil War which are taken for some governmental purpose. And some are redevelopment deals where the taking is questionable, quite frankly. Some are for out and out public projects, road taking, highway takings, and so you have almost two different standards going in. Who's doing the taking and for what purpose and then, what is the quality of this property and the nature of the ownership?

I couldn't agree more. Juries are very sympathetic. But juries can only award money. And so how do you preserve the family farm or the century farm or whatever it's called, the centennial farm? That would require some special legislative attention. We'd be happy to help you or think it through with you. But I don't have any recommendations. The other Mr. Wallach may have.

STAN WALLACH: I, as well, would be happy to work with you.

HOBBS: Start working on it because we're going to be coming to you and asking for advice.

HOWARD WRIGHT: I would be interested in any analysis that you have. If you think the Constitution has to be amended. My sense as a former municipal attorney is that the Constitution says home rule cities are subject to the laws of the General Assembly. Statutory cities get their

powers directly from the General Assembly. So my initial take on that, is that you could do everything by statute but if someone thinks otherwise, I would be real interested in that analysis so that we could put focus on that. So if you have something like that — you say, well, we can't deal with this as a statutory amendment, that would be useful for the committee to have that information.

JARRETT: Thank you, gentlemen. Appreciate your participation and there was one question for Deputy Mayor Geisman.

CARMODY: Good morning, Ms. Geisman, thank you for coming and congratulations for all that is going on in the city of St. Louis. It's obviously a very very exciting time.

But one thing I would like to ask you about since that's what this task force is focusing on is do you think while saying generally that the city needs and its various agencies need the ability to exercise the bar of eminent domain, is there anything about the exercise of that power, the laws, the procedures, the guidelines that you think need to be modified in any respect.

GEISMAN: You're kind of catching me out of the blue, here. But I think that the system, as it is, provides for a jury trial to set the value and I guess addressing what the other gentlemen were talking about, if we, you know, what one property owner stop an entire project, we wouldn't have been able to get here this morning because there wouldn't be any road from St. Louis to Jefferson City. So I think the jury trial system sets the compensation for the property and in my more recent experience I think the jury trial system sets higher compensation than I think, in many cases, the value of the property is. So I am not sure that any particular change is needed given that we've got the jury trial system in place.

JARRETT: Senator Gross.

GROSS: Quick question. Of all the examples that you showed, many of them I think were

great examples of the use of eminent domain, depending on the status of the property when it was taken. In the city's view, were any of those not blighted situations? And I know the definition of blight was going to vary. But in the city's view, were all of those blighted properties?

GEISMAN: I think except in one case where some people might say it was blighted and other people might say differently.

GROSS: But the city, though. Did the city say it was blighted?

GEISMAN: The city believes that it's blighted and the area, and this is a key point, within which the property was located was blighted as well.

GROSS: So the city has only used eminent domain in blight circumstances.

GEISMAN: Yes. To the best of my recollection or knowledge because I only go back 30 years not forever.

GROSS: Thank you.

GEISMAN: Thank you.

JARRETT: Chris.

CHRIS GOODMAN: Deputy Mayor, can't get off that easy. I just had kind of a two part question. Building on where this group went last or two weeks ago, we decided to kind of focus on four main areas, and separating urban from suburban, rural. I just wanted to tap into your development expertise and ask you a two part question.

Do you see, being on the front line, developments and definite differences in older urban cities as opposed to suburban and rural. For example, on the second part, problem properties. I'm a city resident and we see problem properties everywhere. My first response is, heck, why can't the courts go out and tackle that. But it seems to be a slow and arduous process to do that. So ... and

leading to the development of eminent domain and that use so — two part question; difference between urban, suburban, rural and the issue of problem properties.

GEISMAN: Okay. The big difference between the urban situation and the rural situation and suburban as well is that we're dealing with properties that have already been developed as one thing or another and I think it's fair to say that without exception, every square inch of the city was used for something else before it has to get redeveloped. That's very different from a cornfield situation where the land is in its natural state.

Because the land has been previously developed and carved up and subdivided, it makes it that much more difficult to assemble a site for a development that could take place in St. Peters on virgin green field land. Whereas, in the city you have to create that site out of a bunch of other former uses. So that's a, I think, a huge difference between the cities and the suburbs and I think it's one reason why we need eminent domain in the city of St. Louis so clearly.

Part two?

GOODSON: Problem properties.

GEISMAN: Oh, the problem properties.

GOODSON: You showed a lot of them up there and it seems to be a problem in the urban areas and

GEISMAN: Yes. And the problem that we have and this kind of gets back to the development thing as well, is the reason these properties get abandoned is because there is no market. And when the grandmother dies, nobody wants to buy that house so it just sits there and gets owned by all the years. Once that starts happening to a neighborhood, it is very difficult to stop and you have to go and get a hold of those problem properties when they first start being problems and

then go ahead and try and rebuild them back up so the whole neighborhood doesn't fall down. We have neighborhoods where sixty to eighty percent of a block is in the condition that I showed you. Either vacant because the city had to tear the building down or the buildings are falling down and we have blocks where three or four houses are getting to be in really bad condition and that's dragging the rest of the block down.

As far as the courts go, the courts do not have the ability in terms of code enforcement, i.e. making the person fix the place up to make the person spend the 50- 80- 100,000- 200,000 bucks in some cases that it's going to take to fix up a piece of problem property.

And so the court system is very slow and it does not, in most cases, produce the results that people want. As long as people continue to pay the property taxes on the property, all we can do aside from eminent domain is go after them on the code violations. Keep hauling them into housing court. Fining them \$500 and in many cases, they'd rather just pay the \$500 and get on with their lives.

Thank you.

JARRETT: Thank you very much.

Next on our list is Jim Butler. Good morning, Sir.

JIM BUTLER: Good morning, thank you. I guess I'm the first suburbia example of the reality of what's going on. I appreciate your restriction on time. So what I want to do is — I'm probably going to read my testimony and interject it with a little emotional tidbits as they come up inside me.

Again, my name is Jim Butler and I own three automobile dealerships in St. Louis County and I own one in Cape Girardeau.

In St. Louis County, we have two Saturn dealerships, Saturn of South County and Saturn of West County. The dealership involved in this potential TIF is Saturn of West County. It's located at Woods Mill and Manchester Road. It's on the Northeast Corner. We acquired this property, it's a little over five acres, we acquired this property in 1992. These five acres were, there was a dilapidated 100 year old wooden old fire engine building which was ready to fall down. A lot of unkept asphalt and a little building on the other end.

General Motors, in essence, Saturn, and I agreed that with the availability of five acre tracts on Manchester Road in West County this would, at that time, be an ideal situation for our West County Saturn store.

Let me take a few minutes to explain how Saturn is structured. Saturn is unique in the General Motor concept. The General Motor concept, the dealerships was always — you had a dealer on an individual street corner and that was your store.

Saturn has a totally different concept and has since its beginning. Saturn awards a dealer market area. And, in fact, in the city metropolitan area of St. Louis, which someone mentioned earlier is about 2.5 million people, there's only two of us that have Saturn franchises and we basically split the St. Louis market — oh, if you drew a line down Highway 40, the Fuses have the north side and we have the south side. So we're not talking about one location as far as I'm concerned. My Saturn franchise is half of the entire metropolitan area of St. Louis and I'm required under our franchise agreement to have representation.

So in view of that, it was decided that we'd have two stores. One store, the original store, was 1990, 55 and South Lindbergh, which is the center of gravity. And the other store, and part of this was based on available land at that time on Manchester, was Woods Mill and Manchester Road.

So we got started in '92. Took this — it was basically an eyesore in the city of Manchester and we developed these five acres into one of the finest Saturn locations in the United States. Saturn's been recognized for its dealership design and we're very proud of what we did on that five acres of land.

The business was very successful from the beginning. And we were just really getting up and rolling and all of a sudden we run into the 141 Highway project. The improvement of — those of you from St. Louis know what I'm talking about — and this was a real economic gut shot to us for two years as they did this improvement; access and egress from our property became very difficult. That was two years of hardship. And then over the last couple of years since that project's been done, we were finally starting to receive the benefits of that highway improvement.

In September of last year, I was contacted by Pace Properties and they asked if I'd be interested in selling some outer, minor unusable square footage of my five acres because they were looking at this Manchester Highland development in conjunction with the city of Manchester. This was very — it's a minor piece of land and very unable. It's like at a 45 degree angle

JARRETT: Jim, if I could interrupt you. We're over the time limit. If you could wrap up in a few seconds.

BUTLER: Yes. I can. I was starting to enjoy this.

Anyway, I told them I would talk to them about selling this unusable land. They showed me a sketch where I wasn't included in this, what evolved into a proposed TIF area, and we talked and there was no urgency and this was last September.

Anyway, I get a call after the first of the year, I can't remember when, from a friend saying, I never realized Saturn of West County was part of that TIF presentation. I said, they're not. They

told me I wasn't. I got a sketch from them that shows me I'm not. Well, you better read the paper, because you are. And I read the paper and I was. I contacted Pace. They were very apologetic for not communicating with me. I have discovered since then that happens more often than it doesn't.

The bottom line is, I have millions of dollars invested in that corner. It's a requirement of General Motors that I be in that prime location right now. I have went through the trauma of all the improvements and the things that went on the last 12 years and now for me to think the developer is going to be able to come in and take a site that everybody's proud of and economically profitable, just take it away on account of they can use the blighting law or whatever you want to call it, makes my blood boil. And I think the city of Manchester — it's funny, they can't look you in the eye. They kind of look down when they talk to you. But I think it's their way of kind of getting around — you know, the state law says sales tax on an automobile goes to the community where the buyer lives. They're trying to get around that. What the economic impact is of trying to get around it, I don't have the slightest idea. But that's part of their motivation. Because the taxes I pay on a \$40 million business or more, is significant to the state of Missouri, Manchester, and St. Louis County. So I can be a poster child for the extreme of how far this thing can go.

Thank you.

JARRETT: Thank you, Jim. Any questions?

HOBBS: Thank you for coming here today, Sir. I just have one question. Do you have a profitable business.

BUTLER: Very.

HOBBS: So you just stated that you paid a lot of taxes. So what do you think, you mentioned some ideas. This doesn't seem right to me and I can tell it doesn't seem right to you. I think this is

the exact reason this task force is meeting. To address issues like this. And this, to me, is a pure abuse of blight. And we're going to see if we can't do some changing on that.

BUTLER: And however you want me to participate, I'm ready and available. Just call me.

HOBBS: Thank you.

JARRETT: Thank you, Sir. Next we have Will Aschinger.

WILL ASCHINGER: Thank you for being here for us to — thanks for letting us come in and tell our story is what I really mean to say.

My name is Will Aschinger. I'm a former resident of Sunset Hills. I grew up there and I'm with a group that we call "Stop the Sunset Hills Land Grab". Novus Development Company and the city of Sunset Hills want to take out a 65 acre fully occupied tract of land, south of Highway 44, east of Lindbergh, and north of Watson Road. It is a prime location, location, location. As we say in the real estate business.

I want to introduce, kind of, our group and a video we put together. What we are here for is to tell you about our community in Sunset Hills, Missouri. We want you to understand how Sunset Hills elected officials have targeted this area which is fully occupied with residents, or it was, and fully occupied in its business community and profitable. Most of the business owners are private small business owners that risk their lives and depend on these properties, risk their financial lives and depend on these properties for their livelihood.

We want you to see the human impact of eminent domain on everyday people and how the power of eminent domain is being abused by the city of Sunset Hills and Novus Development and, at this time, we'd like to show this video which will show you how a city in a community that we love is being torn apart.

VIDEO BEING SHOWN

JARRETT: Thank you for that video. Very informative. Any questions of this witness?
Representative Hobbs.

HOBBS: I would just like to clarify one thing. Hobbs is a very common name. When we look at what's going on here I think we need to ask ourselves a very poignant question. Are we talking about public need or are we talking about public greed?

ASCHINGER: That's what it is.

If I could, I'd like to say a couple of other things. Just my story — our story.

I grew up in Sunset Hills and went to Lindbergh School District. Our family bought our home in Sunset Hills and my parents bought commercial property in Sunset Hills. So they are embedded there. My father recently passed away and my mother is 70 years old and still managing our properties.

This is about life plan for everyone. Their life plan was to live close to their property so they could manage them and if they got old and they didn't feel like traveling very far, it would be easy for them. And it was very important to acquire these properties that they have. And they are her income now.

In the seventh grade, and this is very very important that you listen to this, when I was in the seventh grade, I became an entrepreneur. My dad and my brother and I and my mom started a small business in a vacant space we had. That experience was invaluable to my growth and my learning how to deal with people, how to be here under this kind of pressure. At least you're a friendly audience, Sunset Hills is not. But that was an invaluable learning experience. Being able to deal with the people.

We had a little retail store and we sold skateboards and t-shirts and sailboats and things of that nature. But that taught my brother and I how to deal with people and has made us successful. We can support ourselves and, to me, that's success.

We grew that business for 18 years and it was just such a great experience to do with your family and I think the other people that are here are going to talk about homes as well as farms or other commercial property. And it's very very important that that ability for citizens to go out and buy a small piece of property or start a small business in a rented store have the forethought in their mind, if that business is successful, they're going to be able to continue it as long as they want to or to turn the property over or the business over to their sons or daughters that can learn that business.

If this eminent domain abuse is allowed to continue, others will not have that opportunity nor will they feel like taking the risk to start that business and to grow it because it can be wiped out just like Mr. Butler said. He went to that site. Built it. It's successful; weathered some storms and he wants that to continue. And all of us should have that right.

I'd like to reiterate our points. The threat of eminent domain has been always present in this project. And Novus' negotiations, they basically were given a license to talk with everyone in Sunset Manor. They were told that if you get 66 percent of the homeowners to sign up, we'll help you. So that threat was there all along.

Sunset Hills, most importantly, is giving away our rights, our property rights and our voting. The Sunset Hills TIF Commission voted "NO" on this project. Sunset Hills elected officials ignored that recommendation. Its own TIF Commission's recommendation and rushed through their approval. Reacting to this, Sunset Hills' citizens petitioned their elected officials. We achieved more than three times the amount needed to bring this to a vote in another city. But they're hiding

behind the fourth class city status that they're in and not allowing anyone to vote on it.

An American's primary right to me is to vote. This is our freedom. The power American's have to control their government is through their voting power and we're being denied that right. Our city is ignoring its people and is out of control and that's why we're here. We're asking for your help.

To give you an update on this project, Mr. Brown of Novus Company is planning on closing on some of the homes that he has under contract next week. I don't know the number exactly. It's probably around 100 to 120 homes. There are storage pods in driveways in this neighborhood right now. And people are moving. They're changing their lives on the hope that this guy will close with some of them on Monday, Tuesday, and Wednesday of next week. We're not moving. We're not going away. And any help that you guys can give by talking to the governor or somehow helping us stop this project is what I'm here for. Any help that you could give us. Any help that I could be of to you. I am in the commercial real estate business in St. Louis. I work with a company called Hilliker Corporation. We represent entrepreneurs in trying to acquire property or sell property or lease property. And so I'm also fighting for my clients' right. So I do have an expertise in the field and if I can be of help at all, please give me a call.

JARRETT: Thank you. Any other questions for this witness?

GOODSON: I wanted to ask you this question because you live there and you work there and I say the homes and the properties in that video and to me not one of them struck me as a problem property. So I'm going to probably ask you a softball question, but I'm going to ask you to look deep and honestly answer it. Is there any problem properties or any blight that you would consider in that area.

ASCHINGER: I would not consider that area blighted. We saw a lot of properties in the city of St. Louis where there is what the lady was up here before describing. Where there are vacant houses and properties that are run down and there are businesses that are failing and nobody is paying attention to properties. This area did not start out like that. There are a few homes in that area, to be very honest with you, that don't look very good. Some of them are vacant. Some of them haven't been fixed up in years. But that is because Sunset Hills has had a cloud of eminent domain of development over this neighborhood for the last six years. These people are exhausted. They maybe don't fix the screen door. They maybe don't paint the front porch or put a new roof on because they don't know what to do. It's a very fearful environment. This eminent domain environment. You feel like fixing it up but yet, well, maybe we shouldn't waste the money. And then the whole eminent domain language gets involved.

And they say, well, like Novus has threatened a lot of these people, that well now if you don't sign this then we're going to have to take you to eminent domain. What does that mean? What's eminent domain mean to the general public? They don't know it means that you're going to get compensated. Just compensation. What's that mean? You guys were talking about that, the lawyers. You know, there's a lot of different — what's just? Well, to me, what's just is, let us hold on to the property for as long as we want to.

Now if there's a problem with the property, if it's vacant, if its gutter's is falling off its roof like Novus' house is on Dean Court, make them fix it. He owns property in there. He's ignored it. The business that you saw there where Bob Evans — I don't know if you tell it was a Bob Evans, but it's right at 44 and Lindbergh, he made a deal direct with Bob Evans to buy that property. And as soon as they shut it down, they took the parking lights off, which bothered some citizens that lived

next to it. They boarded it up. That sends a message. This project's happening. The citizens are going to their city officials to try to find out what's going on. They're scared to death. They won't talk to them. All you have to do is talk to Novus. He'll talk your head off. He'll tell you how the city wants this development. It's going to happen. He's told me personally that, Will, if it's not me, it's going to be somebody else. Can't we just come to some kind of an agreement? And, I'm like, it's not about the money. It's about life plan. It's about being able to hold onto that property.

I apologize for being so passionate. But I'm enraged by this. It's just a travesty. And the problem is we've petitioned the government. The government we don't agree with. And they're turning a deaf ear to us. And that's where we need help.

JARRETT: Any other questions? Thank you very much, Sir.

ASCHINGER: I do have a copy of the video for each one of you if you want to watch it in the future.

JARRETT: Thank you.

We do have a lot of folks that want to testify today. Please be courteous of the other speakers and I'll reiterate, please limit your oral remarks to five minutes. You can provide as much written testimony and backup testimony and materials as you want and that will be duly considered. But we do have a lot of folks to get through today. So I would ask you, please, limit your oral remarks to five minutes.

Next is Phyllis Hardy.

PHILLIS HARDY: Thank you for hearing me today. My name is Phillis Hardy and I am a resident of Sunset Hills and I am fighting the unjust taking of my home. My land is not needed in Sunset Hills for a highway, for a school. The land is being taken so it can be handed over to a rich

developer to build a shopping center for his own his own personal benefit.

Property rights no longer seem like something that is protected under our laws, just something that gets in the way of our city planner's wishes. The little city that I have come to love over the last 14 years has really turned on me. I get the feeling their thinking, well, what's the big deal. The development is only 65 acres. It only contains 262 homes. It's only 18 businesses. Well, that was bigger than my home town, and I think is important. I don't agree. Sunset Manor is a nice little neighborhood where families have thrived and these families deserve a voice.

Over the last five years, our objections have been ignored by Sunset Hills. Our city representatives have refused to listen to us, and they have denied us the right to speak at city meetings. Now the city has given the developer the right to proceed with the condemnation of 85 properties. Forget taxation without representation - we have condemnation without representation. Our city has not only ignored the citizens' pleas for help, but has also ignored the advice of the TIF Commission, attorneys with years of experience in this area, and even the federal government. For example, let's look at the city's handling of relocation benefits.

At one of the TIF Commission's public meetings, an attorney representing several citizens, brought up the issue that the city had mishandled relocation benefits to its citizens. This was referring to a clause in the developer's contract that stated that sellers waived their rights to relocation benefits. The contract or any other correspondence did not notify the citizens of exactly what benefits they should expect under federal or state laws prior to being asked to waive these rights. The city passed an ordinance in 1994, basically limiting any relocation expenses to \$500 dollars per residence. The \$500 dollar allowance was then deemed to be already included in the developers base price so, therefore, the residents are basically getting zero relocation benefits. The

contracts for landlords or commercial tenants included wording to ensure that residents of rental property would receive no relocation benefits. The TIF Commission recommended the city require the developer to allow the property owners additional compensation beyond the currently being required by the city's relocation ordinance. This recommendation was ignored by the city, as was their recommendation to vote down the project.

In July of 2005, the city's mayor was notified by the Federal Highway Administration. They were warning him that due to the fact that the proposed project as planned would require federal action in order to approve the Access Justification Report, the city would have to comply with the Uniform Act regarding relocation. In short, the city basically ignored the letter and they haven't contacted any residents or done a thing.

Since I am an accountant, I usually just concentrate on the financial issues related to the Sunset Hills project. I had a whole lot of information and I hope that you will take the time to read it. I am going to condense it a lot. Basically, what I did was analyze the cost benefit analysis used by the city to justify the project. I presented the findings to the TIF Commission in writing and I do think that the TIF Commission read and understood my presentation as the TIF Commission did go ahead and vote down the proposal. This did not seem to matter to the city. They ignored the TIF Commission's recommendation to drop the project and passed the ordinance 7 - 1 without so much as discussing any of my financial concerns. Of course they are free to do this because the statute says you have to have a TIF Commission, you don't have to listen to them.

So, I had planned to give you a quick example of some of the things they had included in their cost benefit analysis, but I would just like to say that most of the assumptions included were just clearly flawed. I personally found it shocking. So, I don't know how minutes I have - I forgot

to time myself. Do I have a few minutes?

JARRETT: I believe we are just about at the 5 minute mark.

HARDY: Okay. Let me just wrap up. I would appreciate it if you would read what their assumptions were and why they were so flawed, because it's very obvious. You don't even have to be an accountant to figure it out. You could be a little old lady on the street and figure it out.

I hope you will take the time to read my entire speech. Please show the citizens of Missouri that those using the power of eminent domain should take these matters with the utmost seriousness. We are citizens of Sunset Manor have all done, we have done all that we can do. We are filing suits against the city. However, we are quickly running out of time and implore that do to the egregious circumstances in Sunset Hills that the commission recommend Governor Blunt take steps to halt use of any eminent domain until lawsuits can be settled by the voters or can go to courts. So, thank you very much.

JARRETT: Thank you. Any questions for this witness? Thank you very much. Next on our list is Colotta Scott. Bernice Cenatiempe.

BERNICE CENATIEMPE: Good morning. My name is Bernice Cenatiempe. I live at 142 Monica Drive in Sunset Hills. My husband passed away in 1991 and left me with a little to live on. My home is paid for and I am on a fixed income of social security, enough to pay my bills and buy groceries. I am happy living in my home. I have had this property over 36 years and do not want to sell my home. The developer did not offer enough money so I could afford a cost of retirement community. Most of them do not allow pets. Having to get rid of my dog and my home would kill me. When the developers started going to door to door to get contracts signed they came to my house several time and I refused to talk to them. Michael Beck, who was hired as Novus' lawyer

called my home so many times that I quit answering the phone. I was also angry when Mr. Beck called my cousin in Chicago and told her to talk to me and make me sign a contract. He also called my brother-in-law in Wright City to persuade me to do as my cousin. The neighbor next door gave Mr. Beck my daughter's phone number at work and he called her many times and told her that if I didn't sign a contract I wouldn't get any money and I would have to go to court. My daughter got scared and made me sign. Now I have to hire an attorney to help me keep my home. I am afraid that before court proceedings get done this will not be a safe neighborhood for me to live in. It is wrong what the mayor and alderman have done to us. I was wrong — it was wrong for the developer to force people to sign contracts. I pay taxes to Sunset Hills and have for many years and I am horrified that the people we elect had turned a lovely neighborhood into a place fit, not fit for people to live. Thank you for hearing my

JARRETT: Thank you very much for being here. Any questions?

GERARD CARMODY: If I may, Bernice. I want to thank you very much for coming. I know how difficult it must have been for you to be here. I just want you to know on behalf of all the members of the task force, your testimony is important to us and we appreciate you coming. Let me make sure I understand one thing. Are you telling us that you have a signed contract with Novus as you sit here today and that

CENATIEMPE: I was forced to it.

CARMODY: Are you trying - now you're saying you are forced to try to get out of that contract?

CENATIEMPE: I am trying to get out of it to save my home to be able to live there, if I can.

CARMODY: Have you told Novus that you did not want to go ahead and close on your

contract, that you wanted to keep your home.

CENATIEEMPE: Yes, I did.

CARMODY: What did they say?

CENATIEEMPE: He said you go into a demand and you won't get nothing then.

CARMODY: Thank you.

JARRETT: Any other questions? Thank you. Thank you for being here. Next we have Elizabeth Langerak. Did I pronounce that correctly?

ELIZABETH LANGERAK: Hello. It's Elizabeth Langerak. Thank you for hearing us today. Before I say what I need to say, there were two people who were not able to be here today that gave me letters and asked me to read them to you.

The one is from John Hogan. He says here, to whom it may concern: I was informed by Novus Development Company that I should sign a contract to sell my home. If I didn't, they would use blighting or eminent domain. I informed him I was not going to sell. One, on two other occasions he made an uninvited visit to my home. Location, location, location. I do not want to sell or move. Then he has a PS. And he says, I informed the Mayor of the incident, speaking of the incident of the uninvited visit that was made by Novus Development to his home. That was by John Hogan. He lives in Dean Court. 261 Dean Court.

The other one is Claude Whitledge. He also says, to whom it may concern: My name is Claude Whitledge. My wife Mildred and I have lived in Sunset Hills since 1956. It was our intention to remain here as long as our health permitted. In 2000, the first of three developers sought to buy out the neighborhood. We refused to sign contracts then because we believed our city officials would protect the constituents. Coupled with the fact that the mayor of Sunset Hills would

not listen to the people, the fact that the developer was scaring residents with eminent domain and the fact that we could lose money by having to pay additional attorney's fees, we signed an option contract. My wife and I do not want to leave our home, nor do we feel that we should have to take up extra mortgage for a home with less space than we have. We live on an extremely fixed income and would have an even harder traveling from another distant area to our doctors and hospitals.

So that is another one that was forced to sign a contract with Novus Development and now who is trying to get out of it.

As you hear, I am not an American. I came here in August 2002. I originally came here for a six month visit but I fell in love and got married. I always looked at America as being this wonderful land of the free and home of the brave. Isn't that the last line in your national anthem the land of the free and the home of the brave. Well, let me tell you something. I have not seen that freedom since I have been here. In the last three years we have had two developers, I don't know about the third one, who have tried to take our property by eminent domain. Well, I don't think the first one used eminent domain. I remember the first time I went to one of the meetings where the developer, Jonathan Brown was going to speak. I went to the meeting and was sitting right at the back of the hall and I was shocked when this man stood up and he had papers in his hands and he was facing this committee that he was talking to. He was threatening them so much so that right from the back of the building I could see the spit coming out of his mouth. He was saying, that was the law. If they weren't going to give him the power to buy these properties, he will use eminent domain, he can do it, that's the law. That is what he said to these people. Okay. And then that was when I started to wake up and realize, oh my gosh what is happening here.

The area that we live in is called the boothill area in this section of Sunset Manor. It was

recommended that, that area be not incorporated into this development project. But the city officials, the mayor, Mayor Hobbs and the aldermen said “no” it’s all or nothing. We are now in this. Now, I have plans. My husband and I own two acres of land in that area. I have plans to put three businesses up there. I don’t have to use tax increment financing. I don’t need to borrow money from a bank. I don’t need to borrow money from anybody. I can do that on my own and still have a beautiful area that I want to do. We want to build an innovative monolithic dome home in that area. This is tornado alley. We live right in the middle of tornado alley. We want to make the monolithic dome home known to the people. Now our dreams are dashed, we are living on this property and we can’t do anything, I can’t go forward with my plans, I can’t do anything because we are being threatened with eminent domain. This is a matter of interest. We own two acres of land, prime land, its that section of the property where they need to put that outlet from the interstate 44 to get on to this new development. We are being offered for two acres of prime land in the middle of St. Louis, Missouri, \$74,000 dollars.

When I came to live in America, my husband was a bachelor of six years. He was set in his ways, the house was a bit run down. When our relationship started to grow I started to take interest in the house. It was then appraised at \$60,000. About two months after we got married, we had appraisers come in because now we want to put the house into both of our names. I had already done a little work on this house. The appraisers came in and appraised it at \$75,000. Last year, we wanted to re-finance the home. By then I had already gotten a garden going, I had done a stack of work in that home. The appraisers came in and appraised that house at \$135,000. You tell me what is going on when the city officials are saying that the property values in that area are going down. They are going down because the people are being threatened by these developers. They are losing

interest in their homes. I'm not gonna lose interest in my home, not for any developer. I will continue to work on my home.

JARRETT: Thank you. Any questions of this witness? Thank you very much. Appreciate you coming. Next is Jim Seelbach.

DR. JAMES SEELBACH: I won't take five minutes. Thank you for this ability to explain my position in this Sunset Manor with eminent domain thing. My name is Dr. James R. Seelbach. I'm 83 years old, retired veterinarian, living at 249 Dean Court in Sunset Hills. I graduated from University of Missouri in 1950. My parents now deceased have owned the home for 40 years. After their deaths I have lived there for the past 20 years.

The neighborhood has been conducive to pleasant communal living and now the city's politicians want to disrupt the wonderful close knit neighborhood for the sake of more tax revenue. This is not, up to this point, a blighted neighborhood. But the city officials with the help of the developers began undermining and destroying our neighborhood. First, by allowing the developer full control of eminent domain proceedings and second, by withholding vital services from residence.

Many people are already abandoning their homes on the promise of payment from the developer. If empty houses become vermin, animal and human, will take things over. Many people are salvaging their homes and boarding up openings where windows were taken out. Some are stripping the copper pipes from their homes. There is a home owned by the developers up the street where teenagers are getting in to sleep at night. This is owned by the Novus and its been empty for two or three months. There are no utilities and no water service and the house reeks of old urine and feces. This as well as the vacant homes will draw rats, squirrels, possums, bats carrying rabies, and

mosquitos carrying West Nile disease and other numerous parasitic diseases. Residents have already had to call St. Louis county on several occasions because the city officials have repeatedly ignored complaints. I don't know how laws are passed that give greedy developers and tax grabbing city officials the right to ruin peoples lives, and steal the homes they worked hard for the sake of a shopping mall. My only hope is that the task force and other legislators to be extremely diligent in passing legislation that will save my and other homes and allow the citizens of Sunset Hills to vote on their own future. Thank you for your attention.

JARRETT: Thank you sir. Any questions? Thank you very much for being here and we appreciate your testimony. Next is Kathy Tripp. Yes, Spencer.

SPENCER THOMPSON: Yes, I got disconnected for a moment. Have you, do you know when you are going to take a break?

JARRETT: We will probably take a lunch break here in 15, 20 minutes.

THOMPSON: Okay. I wanted to try and time my call so I didn't disturb the testimony.

JARRETT: Okay. Very will. Ms. Tripp.

KATHY TRIPP: I won't take too much of your time, because my predecessors have pretty much told the way it was. One thing I wanted to say was, in the very beginning of the Constitution there's these words, I think they are called domestic tranquility. Well, I wanted to enumerate on that just a little bit because I haven't seen that for many, many years in Sunset Hills. I've read and re-read both the Constitution and all the applicable statues of the state of Missouri and nowhere does it say that "A number of property owners in any residential portion of any city can call in city officials to condemn the property of others because they were interested in relocating and had entertained options on their property from commercial developers for subsequent redevelopment.

This was the basis for the institution of the redevelopment project in Sunset Manor. My neighbors made the decision to condemn my house for me. City officials paraded three developers through our area in the last five years or six years, excuse me, starting with Weston, then Sansone and now Novus and they negated everyone's rights. In an effort to further stifle the rights they encouraged blight by doing a tremendous disservice to the residents by changing the zoning laws to add the same building restrictions for lots averaging 5,300 square feet as are imposed for lots at 7,500 square feet. They deemed the land as nonconforming and then they rewrote the comprehensive land use plan to conform with the study of blight.

Our neighborhood has been sabotaged continually by city officials who have conspired to change street structures, allow them to crumble, who allowed commercial buildings to be built in residential areas that are not built to conform with existing ordinances, with no variances and against neighborhood protests. These same officials gave their blessings to a developer who terrorized taxpaying citizens with threats that would make them give up their homes and businesses for far less than they can be replaced for. We now live in an area that in spite of all of this property values continue to increase, not decrease.

On September 28th, Thomas Jefferson wrote the following to William Jarvis, "To consider the Supreme Court Judge is the ultimate arbiters of all constitutional questions is a very dangerous doctrine indeed and one which would place us under the despotism of an oligarchy." I do not for a moment believe that the Supreme Court looked beyond case law to see the enormous abuses resulting from their past decisions. Had they done so, I do believe a different decision would have been handed down because it is common knowledge the power without any checks inevitably leads to abuse and eminent domain is certainly no exception.

City officials are allowing Sunset Manor properties to be bought at less than 2003 market value, with no relocation and no housing adjustments and forcing court actions if residents refuse. Contrary to the development contract signed by the city, the developer does not have to negotiate in good faith for the property, and regardless of whether he can afford the property on the open market is inconsequential. Sunset Hills gave this developer full control of eminent domain proceedings, while scores of residents have pending litigation against the city. This will be disastrous for the entire city if the lawsuits filed by these residents are successful and the developer has already seized most of the property. Forty-two million dollars in taxpayers' money is at risk here, as well as the financial future of Sunset Manor residents. That's not to mention the little stated fact based on the 2002 census figures, that 83 percent of all African Americans living in Sunset Hills will be displaced. I submit to you, ladies and gentlemen, that in 2005 that number probably has risen to 93 to 95 percent of African Americans. These elected officials are clearly abusing the power of eminent domain and must be held accountable.

Taxpayers should be given the opportunity to vote on specious projects that will end up placing the burden of payment in their laps, as well as anyone purchasing goods and services in this development. Sales tax rates in this development will be higher to retire additional bonds in excess of 18 million dollars. The only cost benefit assumption for this project came from a company who was paid by the city to make these exaggerated assumptions. Remember that document the Declaration of Independence? Well it states that whenever any form of government becomes destructive of these ends, it is the right of the people, to alter or abolish it and to institute the new government laying its foundation on such principles and organizing its power in such form, as to them shall seem most likely to affect their safety and happiness.

I am a resident of Sunset Manor and for the first time in twenty-two years my safety feels threatened. I have been stripped of my right to own property and to sell property at my choosing. My right to vote. My right to redress. My right to speak at public meetings and my right to live in domestic tranquility. This certainly abrogates my happiness. As a taxpaying citizen and registered voter, I stand before you asking my government to save my health, my home, and help me regain my rights as an American.

I wanted to add also, that one of the recommendations I would make to any changes that needed to be made into law, is that TIF debts should be subjected to the municipal debt limit imposed by the state Constitution. Thank you very much.

JARRETT: Thank you. Any questions for this witness? Thank you very much.

TRIPP: Thank you.

JARRETT: Next we have Maria Sanchez.

MARIA SANCHEZ: Hello. My name is Maria Rivera-Sanchez. I am a home owner in Sunset Manor. I would like to read a little statement and I thank you very much for taking your time to hear me.

My statement is titled, Modern Day Land Rustlers. For most families looking for a new home can be a joyful and exciting experience. But, for some lower-income busy single-parent families this experience can be looked upon as a nightmare. Especially if they don't have a choice in the matter.

Approximately six years ago, I found a well-maintained small, two bedroom home in Sunset Manor. It took me twelve months to find such a home in this precise area that I wanted to raise my two children. Then I had a real estate license and I checked the MLS, the multi-listing service, for houses daily. I had been working full time in construction as an electrician and communication

installer. I was raising two children alone. So I wanted to find just the right school district for my son and daughter to attend. My daughter has a learning disability that needed special attention. When I finally found my home I felt my prayers were answered.

But six months later a developer sent me a letter informing me of a possible buy-out in my neighborhood. My heart sank when I read the letter. Soon, more letters and contracts came with the threat of eminent domain attached. Briefly, eminent domain is a process in which a property can be taken even though the owner does not want to sell their property. I thought to myself, how can a developer take my home from me when I don't want to leave. I dug ditches in the rain, worked in sub-zero temperatures and strained my body working long hours so I might afford a nice home in a prime location. Land rustlers are a thing of the past. But today's developers have taken their place.

About a year and a half that developer had given up. Soon the community was back to the normal, uneventful lives. I also began to feel at ease once again. Long afterwards, approximately six months later, another developer came down upon the neighborhood like a hawk on a defenseless rabbit. This developer had on his staff a lawyer who visited my residence on two occasions. On this lawyer's last visit, he informed me that I had no choice but to sign a contract because his company was going to take my home by use of eminent domain.

So what is eminent domain? How can a private developer take a person's home for private gain? According to the Missouri Bar, eminent domain, often called condemnation is a legal process by which a public and certain private bodies, such as utility companies, railroad development corporations and some others are given legal power to acquire private property for a use that has been declared to be public by constitution, statute or ordinance. Under the United States and Missouri Constitutions, private property may be taken by eminent domain so as long as the taking

is for public use and the condemner makes such compensation. Today many homes throughout the United States have been taken from hard working families and given to private developers. Often, private developers use city officials as middle men for their, get rich quick schemes.

It is wrong for Sunset Hills to take the homes of Sunset Manor residents and hand the land to a private developer. There is never a win, win situation in this process. This law was originally put into place for public use, not private use. Sunset Manor families have been placed in the awkward situation that they have little time or money to find a new home in their immediate area. Most families will end up renting a home or apartment at a higher price than their original mortgage payment. The going rate in this area for a two to three bedroom house or apartment ranges in price from \$750.00 to \$1,000 dollars per month. My monthly house payment at the present time is \$589.00 dollars a month.

I am a military veteran and I used my VA loan to acquire this home at 6 ½ fixed rate. I am a single parent going to college full time and working two part-time jobs. My daughter may not be able to graduate from Lindbergh High School with her classmates because of this possible move. Many of the residents in Sunset Manor are in the same predicament as I. As you can see, this can be a costly problem, financially and emotionally. It could affect the 250 families of Sunset Manor. The developer does not care about the families possible hardships. He just wants the land and he will do anything to get it.

Two-thirds of the families have signed with the developer at the beginning because they just want to go on with their lives. I'm tired of being harassed. Many city officials throughout the United States have turned their back on the citizens that they swore to protect. And for what? Money?

The term blight means an area does not meet with today's standards. This area in question is mostly comprised of two and three bedrooms homes. Single family homes without garages. The majority of the homes are at least 55 years old, but have been well maintained. In the summer you can see a multitude of residents tending to their gardens and lawns. Some children are seen riding their bikes or playing basketball in their driveways. Many of the residents are seen walking their dogs or jogging. Several people in the neighborhood are repairing or making improvement to their property. There are a small percentage of the residents that do not maintain their property but those are the homes that are rentals. To blight an area, to get rid of a few undesirables is not a solution. To blight an area in order to increase tax revenue for the city at the cost of pushing families out in the streets is not an ethical option. These are the last of the moderately priced two to three bedroom homes in the immediate area. A city must be diversified. It must be comprised of people of different backgrounds. To upset this balance could eventually ruin a city. If this property were to be commercialized, Sunset Hills will have more problems than it currently has. This property is next to the highway 44 and it is more accessible to criminals. To blight this area for the use of commercial trade leaves it more open to criminal activities that could cause overwhelming problems for the city. Blighting an area for public use is what the law was originally created for, not for private use.

Right now the Lindbergh Boulevard and Highway 44 location is in high demand by the commercial and private developers. This location connects Kirkwood and Sunset Hills to many communities leading to the city of St. Louis. Highway 44 also interconnects with Highway 270 which leads to many other communities around the St. Louis area. This is the reason I decided to purchase my home in this area. I can virtually reach any location in less than 15 minutes. This is

why developers want Sunset Manor. This is a prime location. Does this fact give the developers more of a right to the location than a private individual?

JARRETT: If you would wrap up. Just a couple of seconds, thank you.

SANCHEZ: The contract the developer has given to the residents states that the residents will not receive payment for their homes until they vacate the premises. As a former real-estate agent, I can tell you that the possibility of all 250 residents finding a home quickly is practically impossible. Many of these residents have children in grade school or high school and if you have not been able to find a home in the district for the children to attend. There are several single parent families in the community. This move would be very detrimental to their lives. The developer has made it clear that he will not take responsibility to make the transition easier for the residents. Basically, I want to let you know that this developer is not looking for improvement to the community, he just wants money in his pocket. He basically would do anything to get our homes. I think this is wrong. I wish that you would make the right decision on protecting us in our rights. Thank you very much.

JARRETT: Thank you. Thank you for sharing your story with us. Any questions? Our next witness is Michael Koehler.

MICHAEL KOEHLER: Mr. Commissioner, panel, thank you for this opportunity. My name is Michael Koehler. I am a resident of Sunset Hills, Missouri. I'm also here today to speak on this abuse, this monster we call eminent domain. Eminent domain, as you've heard allows a developer to offer rock bottom, low-ball amounts for private property, knowing, that if the owner refuses or rejects the offer, he can simply petition the municipality, the city, and/or the county to seize the property through court actions. The existence of this immoral tactic, eminent domain, offers a developer no enticement to negotiate openly, fairly, or equitably with property owners.

In my particular case, I'm 57 years old, I've lived in my home for over 30 years. I've enjoyed the luxury of a paid mortgage for the past 5 years. At my point in life, while I am not considering immediate retirement, I am, nonetheless, very frequently reviewing and adjusting my retirement portfolios. A house payment or mortgage does not figure into those plans. Nor do I intend to withdraw from an IRA or savings account. It has not been demonstrated to me why I owe Novus Development Corporation the favor of discounting my property and going into debt to maximize his profit.

I referred to eminent domain as a immoral tactic. So as not to be repetitive and in a slight departure from what you have heard, I wish to address that issue. I want to share with you information that I feel no God-loving, church-going person can morally ignore.

Virtually every Christian denomination, and Judaism, has taken stands on issues of social justice and human dignity, ranging from abortion, capitol punishment, and basic human rights, just to name a few. These faiths adopt interpretation from the elders and superiors and enact them into precepts, to guide and govern their life behavior and decisions all the way from their members, their clergy, and their laity.

My quotes today will be extracted from the papal encyclical titled *Rarum Novarum*, issued by Pope Leo the thirteenth. Perhaps the Latin title gives hint that this is a document of the Catholic Church. An encyclical is an official letter, if you will, a document written by a pope, with the guidance of the magisterium of the Cardinals. I have selected a papal encyclical because many other Christian denominations look to the Catholic Church for guidance and direction on viewpoints on major issues, not for the purpose of emulating or copying, but to affirm that they also are in the right direction in a show of Christian unity. Herewith are excerpts from this encyclical.

The encyclical opens stating that striving to do away with private property, to be administered by state or municipal bodies, is moreover unjust, because it robs the lawful possessor, and distorts the functions of the state. One compelling reason for man's labor is the motive to obtain property, and therefore hold it as his own. He therefore acquires a right, not only to the remuneration, but to the disposal as he pleases.

By endeavoring to transfer the possessions of individuals, whether the property be land or chattels, would deprive the man of his liberty and thereby of all hope and possibility of bettering his condition of life. Every man has from nature the right to possess property as his own. The fact that God has given the earth for the use and enjoyment of the whole human race can in no way be seen as a ban to owning private property. This is deemed in accordance with the law of nature as outlined in Genesis.

Here again, we have further proof - let me move on. Now when a man thus turns to the activity of his mind, and the strength of his body toward procuring property, he should possess that property as his very own and have a right to hold it without anyone being justified in violating that right. The common opinion of mankind, in spite of the few dissentients, has found the practice of all ages has consecrated the principle of private ownership as being pre-eminently in conformity with human nature.

The authority of the divine law adds its sanction, forbidding in severest terms, even to covet a neighbor's wife, nor his house, nor his field, and so on. In other words, it is what we know as the Tenth Commandment. By God's authority, we have the family, the society of a man's house, albeit a small one, but none the less a society and one of older than any state. Consequently, this society has rights, privileges and duties peculiar to itself and quite independent of the state. Of these rights,

the right to property has been proved to belong naturally to individual persons.

If citizens were to experience hindrance instead of help, to find their rights attacked instead of being upheld, then society would rightly be an object of detestation. The contention then that civil government intrude into an exercise control over the household, the family or the society is a great and pernicious error. If the society finds itself in exceeding distress, deprived of counsel, or there occurs grave disturbance of human rights, and without prospect of extricating itself, it is right that the distress be met with public aid, not to deprive citizens of their rights, but to safeguard and strengthen them. In addition to injustice, this intervention and disregard for rights would be reality, the leveling down of a condition of misery and degradation. The main tenant of community goods must be rejected since it only injures those whom it appears to benefit. The first and fundamental principle must be the inviolability of private property.

The peoples' encyclical further goes on to offer solutions and advice. All striving of men will be vain if they leave out the Church. By keeping silent, you would seem to neglect the duty incumbent on you. The very oath of public office in most governments ends with the four words "so help me God". The church uses efforts to enlighten the mind to help you direct life and conduct of all.

The papal letter also warns of your duties and responsibilities have nothing to do with men of evil principles, who work upon the people with artful promises of great results and excite foolish hopes which usually end up in useless regrets and grievous losses. Men are reminded that working for gain is creditable, not shameful, but to misuse others of society in pursuit of that gain, or for their own value is truthfully shameful and inhuman. To exercise pressure for the sake of gain and to gather profit out of another's needs is condemned by laws, human and divine.

Whereas the general interest or any society suffers or is threatened, which can in no other way be met or prevented, the public authority must step in. The limit of the law is the principle being that the law must not undertake more, nor proceed further than is required for remedy. When there is question of defending rights, the richer and authoritative have many ways of shielding and defending themselves and stand less in need of help from the state. Whereas the mass being affected or having no resource of their own to fall back upon, must chiefly depend upon the intervention or assistance of the state. To our lawmakers, there is duty of safeguarding private property by legal enactment and protection. Most of all, where the passion of greed is so strong, neither justice nor the common good allows any individual to seize upon that which belongs to another. The authority of the law should intervene to put restraints to protect lawful owners.

JARRETT: If you could wrap up for us please.

KOEHLER: I'm right there. Ladies and gentlemen, this is not a new concept. This encyclical, it was titled *Rarum Novarum*, was written by Pope Leo the thirteenth in 1891. It was reaffirmed by Pope Pious the eleventh in 1931 and once again by Pope John the twenty-third in 1963. While I made references to Christianity, these concepts have also been adapted by Judaism. I would like to share with you a Hebrew word, if I may - "anawim". Anawim translates basically as "the little people", or "the little ones". The intent is not merely at children, but to those unable to protect, defend or provide and escape unjust oppression of any form on their own. We, before you today, are the anawim.

I would like to leave you with a quote from a most renowned philosopher, in conclusion, Thomas Aquinas; "Human law is law only by virtue of it's accordance with right reason; and thus, it is manifest that it flows from the eternal law. And in so far as it deviates from the right reason,

it is called an unjust law; and in such case it is no law at all, but rather a species of violence.”

Thank you.

JARRETT: Thank you, Sir. Any questions? Next on the list is Mark Stobie. Cindy Stobie.

CINDY STOBIE: I have three pages here, but it is not very long because it is in senior size print. My name is Cindy Stobie and I have lived at 169 Flora Lee Place in Sunset Hills for thirteen years. For nearly half the time we lived in our home, we have lived under the threat of eminent domain. The threats to our health and home are beginning to take toll on us and we are truly scared of what will become of our close knit, well maintained neighborhood.

In June, scores of residents filed two lawsuits against the city of Sunset Hills. One of those suits challenged the propriety of the TIF. The other challenged the city's position on the right to referendum. With over sixty million dollars allocated in taxes benefits, the city as a whole, should have the right to vote since the failure of this development will burden them tremendously. While these lawsuits are pending the board of alderman acted recklessly and voted to condemn 85 parcels of property, 25 percent of the property in the area, and then gave the developer full control of the eminent domain proceedings. The consequences for this lovely neighborhood will be devastating. What will happen to these people if the lawsuits are successful? They will be living in the midst of a war zone created by a greedy tax grabbing city officials. How many business owners will lose their livelihoods and how many will go bankrupt? The homes are being taken right now without any assurance that this development will even happen. We are seeing an increasing amount of vacancies. With this will come vandalism, perhaps arson, looting and burglaries. What defenses will we have if the city has virtually stopped services to us.

In the past four months there are now overgrown yards, old tires stacked behind homes, trash

in the streets, raw sewage seeping from clogged sewers that landlords no longer repair. Abandon cars, crumbling curbs and streets and dangerous manhole covers that are broken and have been left behind, have been left to cause damage on every single car that may drive over them. Because of this there is very real threat of West Nile disease or any number of diseases that could infect residents because of the city's willful intent to destroy a neighborhood for a shopping center that will not work in this already commercially saturated area. We are sitting ducks here and we will not be able to wait for this task force to make recommendations. Where will we go with no money to go with. If we stay, will we be able to maintain our health, will we be safe? Can any one of you tell me this with any certainty? We want our neighborhood back. This is an area of great affordable homes and the diversity of our neighbors make it such a wonderful place to live. Thank you. And I do just want to say one little thing. Before we were blighted, we were able to sell our home for more than what they even offered us. That's it.

JARRETT: Thank you. Any questions? Thank you again for sharing your story.

Frank Hardy.

FRANK HARDY: Good morning. My name is Frank Hardy and thank you very much for letting me testify before the Missouri Eminent Domain Task Force. I live at 421 Rayburn Avenue in Sunset Hills, Missouri. My wife bought our home in 1991 before we were married in 1993, so I have been a Sunset Hills resident for 12 years and she has been a resident for 14 years. Our house was built in 1988 so it was only three years old when she bought it. We have worked hard over these years to keep our house in good repair and even invested thousands of dollars to improve its value, not for the sake of resale, but for our own comfort and needs.

My wife and I learned of our inclusion in the latest development of Sunset Manor, the

neighborhood in which we live, at a public meeting in April 2004 that we just happened to attend. We were never officially informed that our home was included in this development area by anyone from the city. Our first written notice of any kind was a purchase offer from the chosen developer, Novus Development Company, which was 175 percent of our 2003 St. Louis County property assessment. The developer, over the past year, has not budged one dime from his original and only offer, however, property values in general have gone up substantially since that assessment.

Considering that these purchase offers for some 262 homes and 18 businesses in Sunset Manor are based on the 2003 St. Louis County property assessments, it got me to wondering about those property values in recent years. I have conducted a study of the values of those properties included in this development area over recent years, from 2000 to 2004, and have come up with some startling conclusions. These property values have increased substantially despite the dark cloud of condemnation and eminent domain threats that have been forced on this area by the city with a parade of developers since 1999. That's remarkable isn't it? How could a neighborhood whose property values have increased over recent years be of detriment to the city and need to be considered for redevelopment? These property values are public information and were available to the city during the entire time of this redevelopment proposal process.

I took this study even further. I wanted to find a comparable area in the St. Louis area that is of a similar makeup as Sunset Manor with middle income housing and small businesses that have been there for many years. One area that fits this description well is an area known as "The Hill" in St. Louis. Anyone that is familiar with the St. Louis area has heard of and probably been to "The Hill" with its well-known restaurants, quaint stores, and well-kept homes. "The Hill" is an area, even though it's located close to major highways, which would never be considered for

redevelopment into a shopping center. It is, if you will, a “sacrosanct” area of St. Louis. When the property values for those older homes and small businesses on “The Hill” for the same time period are taken an equally remarkable discovery is made, these graphs of residential and commercial property values will illustrate these differences.

If you look, the red is Sunset Manor and the blue is “The Hill”. The property values for “The Hill” have only increased marginally overall and when examined year to year have, in most of those years, actually decreased while, at the same time, Sunset Manor properties have shown an increase in every year. How can that be? How can a neighborhood like Sunset Manor that has a substantial increase in property values, despite the constant foreboding threat of condemnation and eminent domain hanging over it, be considered for redevelopment when a comparable neighborhood of “The Hill” and its modest increase in property values be an untouchable area?

By this comparison it is shown, first, that Sunset Manor should not be considered for redevelopment and the city’s permission to the developer to use eminent domain for these properties should be revoked immediately. And second, if the current abuse of eminent domain can be considered to be used on the properties of Sunset Manor it can be used on any property anywhere in Missouri. There is no property safe from its grasp, not even “The Hill”.

The city of Sunset Hills’ consultant determined that Sunset Manor would not fit under the definition of blight as defined in the state statutes. However, it would fit under the definition of a conservation area. I would like to read to you the definition for a conservation area as it states in the Missouri Revised Statutes, Chapter 99, Section 805. As I read this very loose definition please listen closely to the description of the property and think to yourselves if you know personally of a friend, a family member, or an acquaintance that might own some property that could fall under this

definition.

“Conservation area”, any improved area within the boundaries of a development area located within the territorial limits of a municipality in which 50 percent or more of the structures in the area have an age of thirty-five years or more. Such an area is not yet a blighted area but it is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment....

JARRETT: If you would please, Sir, wrap up for us.

HARDY: Okay. Abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation; light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. A conservation area shall meet at least three of the factors provided in this subdivision for projects approved on or after December 23, 1997.”

Would this loose definition apply to any properties that you know about? My guess is that everyone probably knows someone that owns a property that would fall under this exact description. Then I ask you, if you do know someone who has property that falls under this definition, is it being taken by eminent domain for redevelopment? What I am saying to you here is under the current definitions of Missouri laws and the extreme abuse of eminent domain in this state that no one, not even the members of this task force and your own personal property, are safe from the ominous grasp of your property being condemned and taken from you by eminent domain abuse.

Please help the residents and businesses of Sunset Manor and other areas across Missouri by

putting an immediate moratorium on the use of eminent domain until the state legislature has the opportunity to debate this highly volatile issue. Sunset Manor is, very likely, the next Kelo vs. City of New London case. Do not let Missouri be embarrassed by this horrific abuse of eminent domain like Connecticut is now. We need your help now. Thank you for your time and attention.

JARRETT: Thank you, Sir. Any questions?

CARMODY: Terry, if I could. Mr. Hardy I just want to make sure we understand what these numbers are over here. Is it my understanding that these are the market values associated with the average properties or is this a collective group of properties that average..... assuming.....

HARDY: These are the average property values for those areas, residential and commercial.

CARMODY: So if I'm understanding that graph than in the year 2000 properties, commercial properties on "The Hill" and in Sunset Manor we are about equal value, is that what I am seeing?

HARDY: Yes.

CARMODY: And then, in four years later in the year 2004 there was a spread of \$100,000 plus.

HARDY: Almost 200,000.

CARMODY: Almost \$200,000 that Sunset Manor had increased. Is that right?

HARDY: That's correct.

CARMODY: And the same applies for the residential properties, these are the averages by the county assessor and the city assessor?

HARDY: That's correct.

CARMODY: Okay. Thank you.

JARRETT: Any other questions? Thank you, Sir, very much.

I believe lunch is here, Sherry? Is that lunch? Okay, why don't we take a break for lunch. Reconvene at 1:00. Does that sound good to everybody? Thanks.

LUNCH BREAK

JARRETT: We have just come in after lunch. The ground rules, we are asking everybody to please, for their oral testimony, stick to a five minutes. We're going to try and police that a little bit and give people some advance notice, up here when their time is running out. So, again, for the courtesy of the other speakers we ask that you stick please, pretty close to the five minute time limit.

I've also been approached during lunch with some folks that need to get back. They're out of town, need to get back. So I'm going to let them go first here right after lunch.

First of all we have Senator Kennedy here. Senator.

SENATOR KENNEDY: Thank you. Mr. Chairman, committee members, good afternoon. It's a pleasure to be here, and as I tell people when they hear Senator Kennedy, I say, I'm the real Senator Kennedy. The Senator Kennedy from Missouri, so, anyway, pleasure to be here. As I mentioned, my name is Harry Kennedy. I am the state senator from the first senatorial district, which encompasses south St. Louis City and south county, the communities of Affton, LeMay, Melville, Crestwood, Sunset Hills and Oakville. And I appreciate the opportunity to testify in front of you all. I will keep my comments brief and I'm actually going to read them. I just drove in from St. Louis, and it's raining pretty hard there and the traffic is wild. So I think in terms of brevity, I will read my comments and be happy to answer any questions.

As mentioned, I am here on behalf of the citizens of Sunset Hills, and other affected areas of the state of Missouri. I know that you have heard testimony today and know the details of the

Sunset Hills controversy. I don't like the message that is being sent to the folks of Sunset Hills if this development is allowed to go forward. I think it sends a message that hard working families that work hard, raise a family, and live in a decent home and run a small business that your property is in peril. They're being told that revenue is the most important public use, that revenue is the most important public use, that money outweighs raising a family and living comfortably.

Committee members, I urge you to take several steps, there's changes that need to be made for the folks of Sunset Hills and folks throughout the state of Missouri, and I believe that these changes should be put in the state statutes. Just for example, from protecting property owners to protecting citizens' rights to petition their government, whether they're in the first class, second or third class counties.

And that's why I mention about petitioning their government. Unfortunately, the changes that we take here will not be able to, I believe, help the folks in Sunset Hills, but I believe that their issue is something that is on the forward front of what needs to be changed. I realize the role of this committee, but I strongly urge you to inform the governor immediately about the case in Sunset Hills. These citizens deserve to have their lawsuit settled before their homes are destroyed. I hope that you will consider that all that you've heard from the folks in Sunset Hills, hard working individuals.

I do want to mention that I am a realtor. I've been a realtor for now six years, and I am not against development. Clearly, that I work in that business. I work in residential realty for the most part. But in terms of the saying that we need to have eminent domain used and move people out who have worked, put their money and their dreams in a community, I think we really need to move slowly.

Just two examples I want to give you. I'm having some work done on my house and I was talking to a construction individual yesterday and they're going to give me a bid on some work. He goes, I'll call you in a day or two. And I said, well, don't call me tomorrow. I'm going to be up in Jefferson City about this eminent domain hearing. And he said, good for you, good for you, he said something to the affect of, you know, I could understand if it was like for a hospital or something. And here's just a hard working guy, you know, he said he votes, not all the time, but he votes and he's concerned about the eminent domain issue. He lives in the county, in south county actually, and he is concerned whether his community is going to be next.

I was at the baseball game Wednesday and I was talking to some folks. And they also voiced real concern about eminent domain, and the abuses that are perceived abuses that they see. I appreciate your time. I appreciate your attention. Be happy to answer any questions, and I know that we have a full slate this afternoon, so....

JARRETT: Well, thank you senator. We appreciate your comments and your thoughts. Any questions?

HOBBS: Thank you Mr. Chairman. Thanks for being here, Senator.

KENNEDY: Sure.

HOBBS: You mentioned something that has been intriguing me also. The right to petition your municipalities.

KENNEDY: Right.

HOBBS: I'm sorry it's on. But that is about as good as it's doing.

KENNEDY: Sure.

HOBBS: You know when a municipality looks at annexing property, there is a percentage

there, if the residents in that community that's going to be annexed, if they get signatures two to five percent, in that area, they can send that to a referendum of the people. Do you believe that's what we ought to look at in the use of eminent domain in a private to private taking like that? That allow the citizens of that community to petition, to have that sent to a vote of the people?

KENNEDY: I and my staff are looking into different options. I know that Representative Lipke is looking into options. I don't have a definitive idea of where we should go until the Kelo Decision. Basically, I knew about eminent domain, but it was kind of out there somewhere. You know, so I don't know yet. That is clearly one of the options that there are.

HOBBS: That is something that I am going to be looking at. So maybe we can all pool our resources and look at that as we go along and that might be an option that we need to look at to include in our findings.

KENNEDY: Sure.

HOBBS: Thank you very much Senator. Thank you.

JARRETT: Any other questions? Senator, thank you.

KENNEDY: Thank you, Mr. Chairman.

HOBBS: Next, we'll have Darrell Penner.

DARRELL PENNER: Hi, Darrell Penner from Kansas City, Missouri, downtown Kansas City. I want to thank you all for having this and the governor as well. To follow the Senator's remarks here, he talks about going to the ball game or talking to his construction guy, how big this is, or how important what you're doing here is. I was in Washington, D.C., a month and a half ago for the Institute for Justice, for their national conference on eminent domain. Myself, some of the Sunset Hills people, some other people from around the state, and then also the top 100 cases or so

in the nation. And I was surprised to learn that Missouri is the worst state in the nation on eminent domain. The worst state, right here. And this is so important, and we've been talking to them. And they said, they're looking at Missouri to see what can be done here because now that you have a new governor, and he's pretty progressive and he's got some good ideas, how can, what can Missouri do to lead the pack? How will that influence the rest of the country? So, it's bigger than that. In that fact, after they said that, people would look at my name tag, and see that I was from Missouri, and they would say, I'm sorry. We didn't know, you know? So it was embarrassing. It was like a national spotlight. All of a sudden, we were like star players. Myself, well Paul is not here. But, we were from Kansas City, and this was so big.

Anyway, let me tell you quickly about my story. My family has been going through this for thirty years. It's still not done. It started in the late sixties when Stan Durwood proposed his AMC Theaters, multi-plex complex for downtown Kansas City. There was a four corner block. We were on one of those corners. Our building just got torn down last September. Finally. We're still in, fighting with the city over the amount of compensation. They took a lot. They weren't fair with us. Let's put it that way.

But there's so much passion in this room. There's so much emotion. I think you realize it. You all seem like you have big hearts and certainly seem to care. But for the first time ever in my life I saw my father cry last summer. First time ever. He grabbed my mom and started crying because we thought we were going to end up going out of business because the city wouldn't compensate us with enough money so that we could go buy our own buildings. We had 32,000 square feet, two stories or two buildings, nine stories combined. And the city wanted to give us this paltry sum. We could not find a building anywhere, within, well, miles that we could afford. And

it was just, we were, like, what are we going to do? And my dad didn't want to rent because to rent 32,000 square feet is a lot. And we ended up shrinking down our business by two-thirds and we're renting. We have a \$6,000 a month rental payment. We didn't go buy a building because we couldn't. We weren't going to take on like a two million dollar mortgage. We're a tuxedo and bridal shop, I should have said, American Formal Wear. But, you know, there was just so much emotion to see my father cry.

You talk about Bernice who came up here with her walker and her dog. The name of the dog is Bell. That's how important these little stories, these life stories, she has a chihuahua dog that she may have to leave because of eminent domain. It just doesn't make sense. The options, we've talked about options before. There were so many options in our case that could have been implemented but the city didn't want to do that. They just played strong arm. I'm sure you are familiar with some of Kansas City's strong arm tactics. Our good friends in city hall. It's a fabulous tool. Eminent domain's a fabulous, powerful tool. But it can also be a tool of destruction. And, in our case, it nearly was. So we were going to close down a 70 year old business because the city wouldn't play fair.

And so, I hope, you asked — two weeks ago you said you were looking for topics of discussion that could help you — we can't get rid of eminent domain. We can't get rid of developers and lawyers and all that stuff because it's good. But I think there needs to be, and I feel sort of like a semi-expert in this link because we've been going through. I can remember back, I'm 42. I can remember back in high school. Our attorney, Sherwin Epstein, who is a colleague of the Wallachs', in Kansas City, Sherwin said, Darrell, and I was getting ready to go off to college, and he actually said, Darrell, this is going to take a big toll on your father. So you need to be there for him. I know

you're going off to college. But be there for him and help him. And I had no idea that 25 years later, we're still not done. We're still going back for the jury trial. You know, and so that's so huge. If you can only imagine. I remember seeing my parents fighting over the dinner table.

Somebody talked about making improvements, I think the St. Louis City development person. They wanted to — we had two very nice buildings, old, long, big, thick buildings, that were built in the 1920's. The engineers said they don't build buildings like this anymore. There's nothing wrong with your building. There's no reason to tear this down. And they always wanted to make improvements. But they never could. For 30 years they never could. They were afraid to paint, spend \$10,000 to paint the front because it could be gone in 30 days. Well it was 90 days. The city kept sending us these notices every 30 days in the mail. We've extended the AMC case another 90 days, another 90 days, another 90 days. It went on for 30 years and it finally, Stan Durwood dies. It got into turn around. But now it's the H and R Block project and the Sprint Arena. So finally Mayor Barnes somehow switched things and MODESA helped them and we were basically evicted. But let me just give you some real quick recommendations and I'll get out of here because I have to get back to Kansas City and I thank you for doing that real quick.

As far as the restrictions on time lengths on something like this, because it can really destroy this Sunset Hills neighborhood. Because it's a huge project. It could go on for years and years. And what happened in our case, as Sherwin Epstein will tell you, is that in 1969 when Stan Durward proposed that downtown thing. Downtown was vibrant in Kansas City. There were lots of little shops. There were lots of things going on. The moment he announces, the moment a big developer announces something like that, all the landlords freeze their tenants out. And they give them, it depends on the lease, but they have 90 days leases. They have 100 days out. Whatever, there's

always that little clause. And they kicked all their tenants out. And over night, within a matter of a year and a half to two years, downtown was a ghost town around my parents. We happened to own our buildings, but all the other buildings were tenants, and they were evicted. And all of a sudden, we're like the only ones on the block. And, you know, all of a sudden a couple seedy bars spring up and so you have this real mess of a problem. And then it became, it just infested in over twenty plus years after that, thirty years, it infested. And so, I would love for you guys to create some sort of time restriction on that ability to do that. Because the other value that I learned on the inside, because I had some friends who were friends with the Durwoods, was that, that was part of their plan. They froze the property purposely because they knew the blight would drive down the property values so that when they came in for the later acquisitions, they wouldn't have to pay as much for the acquisitions. And so hopefully you can find some sort of limitations there.

The judges' salaries you talked about...sure went, well I better not say — somebody told us that in Kansas City, the judges for three hours worth of work, get \$1200 to \$2000. The three commissioners that walked through, that I gave them a tour, it was — I can't remember whether it was \$1200 or \$2000, depended on certain things. But for three hours of work I gave them a tour through our two buildings, real quickly, and then they walked back up to their lawyers office. They make their claim, and it's done. That's a major thing. So what they were saying is that there's room for, Mr. Wallach, the younger Wallach said, room for — they become very good friends with those people, because they don't want to, he called it, one person called it, the cushiest job in law. Basically, the best paying job in Kansas City, for those three hours for a lawyer. So, especially a retired lawyer, retired judges, in some of those cases. So you might look at that as far as something, but I just wanted to give you the facts there.

On the compensation valuation, these are just some quick options and you guys can play with them. But land swaps — there's tons of property in downtown Kansas City. We would of — we said, hey we don't want to stand in the way of progress. This is fabulous. If you can revitalize downtown, this is great. Can you just move us one block here, one block there. You know, we'll go anywhere, we're not, we were on Main Street which is very valuable. We know we're not big boys. We could handle that. And they said, no. One of the developers said, your future is not my concern. I'll never forget that. Is Paul here...there you are...he heard them say it. Your future is not my concern. And yet, the land, they could have swapped us down a block. Now they've done it for some of the big banks. They've done it for some of the other big developers who own parcels here and there. Okay. Because otherwise they said, hey, we're going to hold up your project. But for the little guys, they wouldn't allow the land swap.

JARRETT: If you would wrap up.

PENNER: Yeah, I'm sorry. The standardization on the appraisals, that's just something — it would be so great to have a governing body. Our two buildings were only valued at 1.4 million dollars by our appraiser. He was the same appraiser that did the Kansas City Star's big building...1.4 million which I wouldn't have sold for a lot more than that even. I never wanted to sell. It was never for sale. But the city comes in and says, 1.4 million. No way. What was their appraisal? Two hundred and thirty thousand dollars. So we had a 1.2 million dollar difference on two buildings. We're on Main Street. We're two blocks from the convention center. We're two blocks from the highway. We're one block from the tallest building in the state of Missouri. We're three blocks, four blocks from city hall. This is very valuable property. We were forced. And they said okay, fight us. We ended up, not even half way, we had to accept it. We were forced out. We had to

move within a week, this 32,000 square feet of building. It was a mess. My dad had had a heart attack about four years ago and we thought he was going to have another one. So whatever you can do guys, we'd appreciate it. So, thank you.

JARRETT: Thank you. Any questions? Sure, Jerry

CARMODY: Mr. Penner, when you went to the National Conference and determined that Missouri was the worst state for eminent domain, I don't know if I understand what, worst in what respect.

PENNER: Yeah, and I've asked that question to them and it's gets kind of technical because I'm not an attorney. Well, I dropped out of law school. But they talked about the flexibility of the rules and the, maybe someone in the room knows better, but I'm just not good with the, if you talk to Stevens Anderson, he could tell you. But

UNIDENTIFIED SPEAKER: Abuse of?

PENNER: No, it wasn't just the uh, no, it had nothing to do with the abuse. It was the physical laws, were extremely restrictive, compared to other states. And like he was saying, one of the states had, where if the project didn't go through and they had different milestones, 90 days, 180 days, if it didn't go through, the whole project could be tossed out, and never brought up again. It was done. It was a done deal. They created these time lines. Where in our case, he said you're the worst case, probably in the entire nation of abuse because it went on for 30 years. Sitting around the dinner table with my parents, and most of the time I didn't care, because I was kind of younger. But after I got out of school, you know, I'm learning and kind of go into the family business part-time, and I'm like, this is crazy, you know, you can't do this.

But I'll be happy to have him send you the information. It got very technical. I also talked

to the, Scott Bullock, I think was his name. He's the guy who actually did the Suzette Kelo case. He was the one who argued it in front of the Supreme Court. And both of them were kind of bombarding me, and I was just kind of impressed how, how impressive they were. They've offered to come back again, and even Suzette Kelo, who we all befriended, at this conference, she's just a very charismatic person. You might want to hear her testimony, at some point. She said she would be willing to fly in and talk with you. But, you know, it's a crisis.

And whatever you can do to help my family and all the people behind me, and Bell, the chihuahua. He's actually a chihuahua dachshund back there. But, it's those little personal stories, and if you think about your own families, how it would affect you, we'd appreciate it.

So, thank you very much.

JARRETT: Any other questions? Thank you very much, Mr. Penner.

PENNER: Sorry I went over my time limit.

JARRETT: No problem. Next we have Kerry Messer. Is Kerry here?

AUDIENCE: He's on his way.

JARRETT: Oh, great. While we're waiting for Mr. Messer, are there any other folks from Sunset Hills that had wanted to testify? We want to get to you. I would ask that if there is, if what you have to say has already been stated by somebody else, if you would, try to limit your remarks to something maybe that someone else hasn't said and maybe we can get you folks done. After Mr. Messer, he's coming.

KERRY MESSER: Mr. Chairman, please forgive me. I want to apologize to you for not being here. I didn't realize it was going to happen that way. But I do want to thank you, too. This is a difficult day for you to sit and take all this testimony, as important as this testimony is. I want

to recognize that you do deserve some thanks. And it can be a little mundane. So to break that, let me start off, my name is Kerry Messer. I represent Missouri Family Network and I'm very concerned about private property rights.

But I want to break a little of your monotony. Ask you a quick quiz and I think that you'll figure this out pretty quick. What do these agencies have in common? The state of Missouri, Board of Public Buildings, State Transportation Department, Department of Natural Resources, the General Assembly itself, Fire Protection Districts, the Governor, county councils, county commissions, lake authorities, public utilities, water companies, sewer corporations, gas storage companies, electric companies, for-profit telecommunications utilities, municipal public works, sewer district boards, port authorities, water and sewer service corporations, cities, board of aldermen, municipal corporations, by-state agency, school districts and boards of education, the Missouri State Board of Education, the curators of the University of Missouri, consolidated library districts, urban public library districts, road districts, water shed districts. That's just a partial list of the agencies that the legislature over the years have given authority to impose eminent domain on private property. To me, that's quite a list considering it's not even the whole thing. Kelo has captured the attention of the nation, and that's a good thing. It's also the catalysis, the creation of your task force. But Kelo is not just created a problem that led to the creation of this task force. It has succeeded in making a badly developed body of law much worse than what it already is.

Under current eminent domain, people can lose not only their property, but all the resources of that property without compensation. There's no profit sharing for that person that lost that property or owners of that property when that property is put to more valuable use even though they were an investor. Because they were an involuntary investor, they're treated in such a way that they

never receive a return on their investment.

Some of the things that I believe needs to occur here is when a taking entity uses the power of eminent domain, we're talking about an entity that has public resources or other disproportionate amounts of resources compared to the private property owner. And I think it would only be fitting if the eminent domain taking authority paid 50 percent of the legal fees for the private property owners in trying to defend their property. In fact, we have advocated in the past and continue to do so, would ask you to consider, that when a taking entity approaches a private property owner, that the taking entities responsibility would include providing the property owner with an outline of their legal rights instead of leaving them in the dark and not knowing how to proceed. I am quickly just hitting some highlights of some material I'm going to provide to the chairman, apologize for not having copies of all of it.

Any forced takings should be limited to lease arrangements, or at least as an option, rather than a complete sale or a complete transfer of ownership where an involuntary owner, involuntary seller, I should say, loses total and forever control of their own property. And most notably, there should be no private profiteering as a result of eminent domain.

I have an outline of twelve points similar to these that I've read to you that I would make available to you and then, I apologize, you have to make your own copies to distribute.

JARRETT: No problem. We can do that.

MESSER: I want to dwell on two over-riding perspectives here, and I'm not going to take too much of your time. Number one, and this is a result of Kelo, absolutely no governmental subdivision agency or any other entity with the power of eminent domain should ever be allowed to exercise such power over private property for the purpose of enhancing tax revenues or any other

economic benefit. Statutory schemes in Missouri state law should be developed to prohibit the abuse of eminent domain by prohibiting such takings under false pretenses also. This could be accomplished by adopting a clearly defined limitation for a definition of public good or by establishing additional checks and balances under current laws giving property owners greater appeals and providing methods for judicial punishment of such abuses. Additionally, private property taken through eminent domain proceedings should not be allowed to be used for any other purpose than that originally designated as justification for such taking.

Now, having said that, I'm also representing before you today the Missouri Baptist Convention. There's a subject matter that very few people are talking about. And it simply comes down to this, what makes more money? A restaurant or a grocery store or a soup kitchen? Commercial parking lots or parishioner parking? Hotels and motels or homeless shelters? Banquet halls or sanctuaries? Churches all across Missouri are setting in a very precarious position as a result of Kelo. I'm very thankful that Governor Blunt recognizes the need to create a task force. I don't want you to overlook our churches because the revenue that they bring to our state and to our entities is not in a financial sense, but it's a value that far exceeds any dollar amount that you could put on it. But right now, even though someone would say they have the right, the first amendment right, to religious liberty. I believe that right is in direct contradiction to Kelo's Decision. They're both constitutional guarantees. They're both constitutional bodies of law and they're both in contradiction to one another, or could be. If an entity decides that that church doesn't bring enough revenue into the city, but the strip mall will. It's a very important issue.

It's also important to note the constitutional concept's eminent domain in Missouri's Constitution begs that whatever recommendations you make to the Missouri Legislature and to the

governor, must include something in an arena of a constitutional amendment. Because our state Constitution clearly says that the legislature cannot define public good. That that's up to the Judiciary. I believe that needs to change. I don't believe our Judiciary ought to have that kind of power and influence over our private property. The General Assembly has the right to rein that in.

Now, my second point, and I won't be quite so long is that any private property taken for public good must be treated as an investment in the project or other purpose for which it was taken. As an investment any addition, in addition, to any other compensatory consideration provided upon the taking, the percentage of property taken in a relationship to the project or purpose as a whole, should determine the return on such investment for the duration of the taking, up to and including perpetual use, the private property owner should receive an annual pro-ratio return, if any private profits are at any time realized by any person or entity from any portion of a project or purpose. Now, having said that, I'll read you two quick suggestions and I'll be finished.

Number one, and I'll make this, I have copies of this available for you. Number one, no revenue enhancement. I would recommend that we need to put something similar to this in our Missouri state statutes. Notwithstanding any other provisional or to the contrary, the state of Missouri, including its political subdivisions, agencies, or any entity whatsoever shall not exercise any power of eminent domain in whole or in part for the purpose of revenue enhancement or to affect the tax rate or amount associated with any private property. Any political subdivision, agency or entity found guilty in a court of competent jurisdiction of circumventing or attempting to circumvate this prohibition, on the use of eminent domain shall immediately restore and return such property to the original owner of said, and such persons heirs and lose all rights and powers of eminent domain for a period of ten years. This is going to be a tricky thing to accomplish. Notwithstanding

the fact that we have a constitutional hurdle that we have to deal with. We have to deal not only with the idea of cities or other entities trying to enhance revenue, but the fact that it would be very, very easy for those entities to circumvent any laws that we write. And we have to deal with the Constitution.

Number two, and this goes back to the original problems with eminent domain abuse in Missouri. Notwithstanding any other provisional law to the contrary, and this is my recommendation, any private property taken through a process of eminent domain, shall be treated as a voluntary investment in the project or other purpose for which the private property was taken. As an investment, any private profit realized by any party whatsoever, at any time, shall be prorated and paid directly to the original private property owner, or said person's heir on an annual basis.

The point is, if you voluntarily enter into an investment project, you're going to get a pro-ratio return on your investment. But if you're an involuntary participant, an involuntary investor, you get nothing. You're shoved out the door. We hear a lot of testimony today about how the man's property is a man's heart. And when you rip a piece of property away from a person you literally, you figuratively, rip a piece of their heart out of their chest. People invest their lives in their property. And it really does represent a very strong emotion. At the least, let's at least let them realize what someone else is stealing from them, in preparatory, however you say that word instead of just today.

Thank you very much for your consideration and I have copies of these statutory recommendations for you.

JARRETT: Thank you sir. Any questions?

GROSS: Mr. Chairman.

GROSS: Mr. Messer, I've known you for twelve or thirteen or whatever years, I'm surprised

that you are apparently willing to take or have a fall back position still, in essence, giving up what used to be a constitutional right to property, in exchange for some negotiated monetary benefit.

MESSER: You may be misreading me. We have eminent domain. It's founded in the U.S. Constitution and the Missouri State Constitution. None of us is here to convince ourselves that we have any hope of eliminating eminent domain. As private property owners, we just want to return justice to the system.

GROSS: Well, it sounds like you're saying, in a case where we have private property being taken, for private use.

MESSER: Well, here's what's going to occur, we're going to craft legislation over the next year, maybe several years, probably tinker and adjust that legislation as time goes along. But if a taking entity is determined that they're going to do a sweetheart deal with the developer or they're going to do something that someone's going to end up profiting privately, there needs to be a recourse in law. And I'm just facing the reality that no law is perfect and man is inheritably determined to get his hands on as much as he can. And I believe we need to have as many protections for the property owners as we possibly can. I am in no way giving up private property rights.

GROSS: That would have really surprised me. I've known you a long time. You did a good job. Thanks.

MESSER: Thank you very much. Thank you, Mr. Chairman.

JARRETT: Great. Thank you. Let me ask again. How many folks are still here that want to testify from Sunset Hills? Just go right ahead, ma'am.

SHIRLEY ASCHINGER: I need a high chair. Thank you for being here. I am so impressed

with what I'm seeing in reaction from everyone.

JARRETT: Ma'am, if I could just ask you, would you state your name?

ASCHINGER: I am Shirley Aschinger. I am a resident of Sunset Hills and I am a commercial developer and have two of the properties that you saw on the, on the film, DOC Eye Care, All State, and Singular, in those buildings.

All State has been a tenant for 47 years, 37 years, I'm sorry. DOC came in six years ago. Actually wanted the property so much, though this is a blighted area, wanted the property so much that they brought out our existing tenant and put almost \$200,000 into our building in order to be there.

I am so proud of the United States and I am seeing things going so badly. I stand before you today a very frightened person and fear brought on rage that my property, my life plan, all of the things that we sacrificed 30 years ago for, are being taken over by a new kid on the block that wants it all. That has even said, we'll take your tenants. Ummm great, I'm glad I got rid of the dog.

I claim my right to hold my property. That's what makes this country dear. My right to vote against those that are governing the body that we thought were good, and are not. This is so much about the city of Sunset Hills, certainly the state of Missouri, and nationwide, to protect their citizens. This has been, as the man from Kansas City said, a self-fulfilling prophecy.

We were in an office building in Crestwood, for twelve years. We were threatened by re-development. Oddly enough they were not able to get more tenants. We've been threatened on this thing for six years. Eminent domain for a personal developer, is just not the main purpose of it. Because of its prime location, they want it. Oddly.

My husband and I bought these properties in the late 60's, at great personal risk. They are

now debt free. They are well kept and our tenants are happy, and they are striving. My husband died December 23 of last year. This was his last gift to me. I did not know about it until he passed. We had faith in our God, in our country, in our state, and I thought, at least for a time, our city officials. I am an optimist because I live in the United States. I think that the abuse of these laws is....there is no words for it.

If these properties are taken, it's a major part of my income. If these properties are taken, I will lose a significant amount of income. I will break my moral obligation to my tenants and be forced into considerable debt to buy income property at today's inflated prices. The commercial strip that you saw in the film has been the most occupied and steadfast area in Sunset Hills. The latest plan, and this is what really gets me, the latest plan of this developer shows an out-lot either exactly on top of my buildings or very close. So, I should get rid of my property so that he can collect the rents, and higher rents to boot.

We need these small buildings. Where would Bill Gates have been without a garage? If we don't have the nurseries of big businesses to come. Nobody can walk in and pay \$30.00 a square foot at the beginning. Our first homes weren't what they are today. We have to live within our income. All of us, no matter where we live, how big the house, how little. We have to live within our income.

Jonathan Brown, with Novus has a big dream and I appreciate people with big dreams. But he must live within his income. We did our buildings without TIF money. There was no such thing. We would have been laughed out of the courts. I just feel that I am so blessed that you are all here. That Governor Blunt is starting this in trying to nip in the bud what is going to happen if it is not.

I thank you very much. Fear brought me here. Fear turned into rage. Rage gave me the courage to speak to you today. I thank you for your listening. I thank you for your future help in this matter.

JARRETT: Thank you ma'am. Any questions? Thank you so much. Anyone else from Sunset Hills? Sir.

CLIFFORD UNDERWOOD: Chairman Jarrett, my first remark, and I don't need a microphone for that, is the first thing is that I appreciate the way you run a meeting. You should be in meetings that some of these people have been in and the way that they have been treated by people who are supposed to be representing them.

JARRETT: Well, thank you. Thank you.

UNDERWOOD: And by the way, teachers have to have their tools.

JARRETT: Would you state your name for us please?

UNDERWOOD: My name is Clifford Underwood. I live in Sunset Hills. I do not live in the area that is under consideration that has gotten most of the discussion today, but my position simply is this: What happens to them today, can happen to you and me tomorrow.

I thank you for the opportunity to present opinions, views, ideas, and recommendations. During a 40 year teaching career in one of St Louis County's suburban school districts, I taught American Government and the Missouri Constitution for a number of those years. In those days, the strict public use definition of eminent domain meant the building of roads, schools, courthouses, prisons, fire stations, and military bases. That was true public use. The practices concerning eminent domain in Missouri today has made a mockery of public use, and a liar of those of us who have taught the Missouri Constitution.

On the first page of my full text presentation four definitions are given for eminent domain. They consume more than half of a page, single spaced. The point being, attorneys can find numerous billable hours.

What are the perimeters of eminent domain? My definition of eminent domain as practiced in Missouri today is too often theft by another name. At this point, I would call to your attention remarks which Senator Chuck Gross, of District 23, makes in his article found on page B-7 of the St. Louis Post Dispatch, dated July 19, 2005, titled, *Thanks to the U.S. Supreme Court Your Property Rights are Diminished*. Senator Gross states, and I quote, The only saving grace of the Supreme Court's decision appears to be the ability of states to protect themselves by enacting tougher economic development guidelines. In other words, it is now up to the Missouri Legislature to restrict the power of eminent domain in our state to only those instances of true public need. A government condemnation of private property that is clearly for the benefit of private enterprise is a gross abuse of government and powers and regulates the average citizen to the status of a pawn.

Senator Gross refers to Missouri's interim committee which held hearings around the state during the fall of 2003. The Senator further states, quote, In its work, the House Committee reviewed a five year study of eminent domain policies across the nation that identified Missouri as having one of the worst records of abuse. The study by the Institute of Justice in Washington, D.C., that's been referred to earlier, found that local governments in Missouri regularly condemn property for the benefit of private parties, that private re-development corporations were given eminent domain power, and that state courts did not exercise prudent judgement in questions of public use. The senator quoted one witness who states, I'm not afraid of the terrorists today. I'm afraid of developers, and my own city's mayor and aldermen. In situations where eminent domain isn't

ultimately used, just the real threat of it convinces many property owners to sell the property at less than it would bring under normal circumstances. This abusive practice in fact is a distortion of the real state market by adding uncertainties and political factors in what should be free market decisions. Often, courts treat eminent domain victims as if they are the guilty party, seeking to subvert the public good. Victims of eminent domain are viewed as greedy obstructionists. A developer comes into a residential and small business area armed with eminent domain and tells an owner how generous they are being by paying one double the appraised value. Try to relocate for that. The developer fails to note that in the conversion to commercial or high density office use, the value of property increases by five, ten, twenty or forty fold. Name a figure. Often this is accomplished along with tax increment financing and the victim gets to help pay for that if they stay in the area.

Also, the change in classification carries a variety of tax breaks and don't forget to throw in depreciation with that. Yes, property rights get in the way of other people's plans. It is a frustrating when the homeowner or small business gets in the way of a project that promises to revive an area. Everything has a price. But that's the price of freedom. It's a small price to pay when you consider the abuse inflicted on people in other places. A part of the foundation of American's society and any free society is the right to say NO. When that right is stripped away, citizens are far less free than they think they are. We're talking about eminent domain here. But the flip side of this coin is tax increment financing. Commonly known as TIF. It is a companioned abuse of the system. Reform TIF and you will be amazed at how quickly eminent domain will follow.

JARRETT: If you would, Sir, please wrap up in a few seconds.

UNDERWOOD: Okay.

Let me go to the one last remark and that deals with this building right here. Stand in the rotunda of the Missouri capitol and observe the great seal of the state of Missouri and read the state motto, “Salus Populi Suprema Lex Esto”, which means, Let the Welfare of the People be the Supreme Law. Now look over your shoulder and up and read “Property is the Fruit of Labor.” Property rights abuse has made a mockery of freedom in Missouri. It is my belief with the reform of eminent domain and restriction of the use of eminent domain to true public use and a new emphasis on the use of the initiative and referendum incorporated into legislation during the 94th Regular Session of the General Assembly in 2006, the legislature can and shall restore the protection of private property rights, thus giving a true meaning to our own state motto.

Thank you very much.

JARRETT: Thank you, Sir. Any questions? Very good. Well, I would like to, if I could beg your indulgence, for those left for Sunset Hills, is anyone left that wants to, if you wouldn't mind, do you want to come forward. I don't want to get too repetitive here. We've heard from lots of folks. I think we all understand the issues very well. If you've got something that's not repetitive, you want to come forward for a minute or so to sort of wrap up that, I would appreciate that. And then we've got a lot of folks here from areas like Joplin and other areas of the state that have been here wanting to testify, so we want to get to those as well. So....

PHILLIS HARDY: This may be a little repetitive, this is a letter from Sylvia Maltzman. It's basically talking about her plight from selling, if she would have to sell her business. Do you want to hear it?

JARRETT: All right, yeah, if it's just a minute or so.

HARDY: It's a short letter. Thank you. Sylvia Maltzman.....oh, Phillis Hardy...

I'm very much against the buyout attempt proposed by Novus Development, which includes Sunset Manor and the businesses along Watson Road. I own commercial properties at 10501-10515 Watson Road, which includes four retail spaces that have been continuously rented for over 25 years.

This property is a legacy left by my husband, Edward, and holds a deep emotional attachment to me. The rental income is my primary source of financial security. At this time in my life, I do not want the stress of having to select and buy new replacement property. If I have to sell, the capital gain taxes would be a concern and I would not have the monthly income to live on.

The business owners that rent from me are very upset. The success of their businesses are due to this prime location. They actually moved here because of the location, and have established successful businesses. If forced to move to a new location, the advertising and marketing costs alone would be very high.

My daughter, Sylvia, owns Sandy's Carpet World on Watson Road and Lindbergh, and has successfully built up her business over many years. She does not want her business to be forced out. Her customers are mainly repeat customers, along with people who drive by. This Watson Road corridor has one of the highest traffic counts in the area. The type of location is impossible to duplicate. Customers are familiar with the businesses they deal with and don't like to change or start over.

Please protect this community and these people from this development. I'm asking for your support to help us in Sunset Hills.

Thank you.

JARRETT: Thank you.

JARRETT: Next we have Paul Ferber and Laura Schultz.

AUDIENCE: They were unable to attend also.

JARRETT: Okay. Linda Poor.

LINDA POOR: Good afternoon. My name is Linda Poor and before I get started on my statement this afternoon, I would like to just clarify a question that Mr. Carmody asked regarding the reasons that Missouri is considered such an abuser of eminent domain. I, too, attended the conference in Washington, D.C., and what I remember the reasons given for the abuses in Missouri, is the lack of definition of blight and just compensation. So, I thought you might like to have a little bit of clarification there.

I'm here this afternoon to share with you a story. It's a story of what is happening in a small city just south of St. Louis County. The city's name, Arnold. Population, 20,000. It's located along the I-55 corridor. My husband and I own an auto repair business located at the intersection of I-55 and Highway 141.

In 1979, my husband began following his dream, that of owning his own business. After several years of hard work and countless hours, it became apparent that we needed to own our own building in order to continue the type of success we desired. There were several things that we looked for when the search began for this new location. We wanted things such as road frontage on a busy road, high traffic count, and easy accessibility. We were fortunate to find all of these things in one location. After careful consideration, we made a strategic business decision to invest our life savings into this piece of property. This decision was proven to be a very sound, strategic move on our part.

Since moving to this location 16 years ago, the ordinary income of our company has

increased by 700 percent. Besides the fact that my husband is an excellent mechanic, location is why I attribute much of our success.

In January 2004, a developer, THF Realty, approached our city council requesting \$21 million in Tax Increment Financing. They said they wanted to put a Lowe's Hardware Store on 44 acres bordering I-55, Highway 141 and Church Road. This site includes 30 residential property owners, 10 businesses and a VFW Post. The proposed development has been dubbed the Arnold Golden Triangle. Golden of course for the developer who has asked for \$21 million in TIF financing. He also sees a potential of great financial gain due to its prime location. The city sees the golden possibilities as well, as they anticipate millions in dollars in sales tax. Taxes that are sure to be generated by this new development.

Unfortunately, the wealth has not been passed on to most of the property owners. Some of them have been given fair offers, while others have not. The residential property owners for the smallest lots have been offered an amount that could not be refused. The VFW Post, which sits in the middle of the project, is in negotiations for a new building within the development. The only retail business that is located within the proposed redevelopment area, is negotiating to relocate within the development as well. I am thrilled for the veterans who have served our country so honorably. I am also happy for the one business owner and the residential property owners who have been made a fair offer.

What I would like to know, however, is what about the rest of us? I believe that the residential property owners with the larger lots should be given the same amount per square foot as their neighbors. It's only fair. That has yet to be offered. What about the other businesses within the Triangle who have yet to receive negotiations of any type?

I find it rather humorous when the mayor of Arnold has quoted in the newspaper stating how the developer is in negotiations with the property owners. I look at my husband and say, we're property owners, did we miss something? After 19 months of this, we have yet to receive a contract for our property.

Last September, we were given a figure in a letter that was sent out. The number that we were given for our property was, to say the least, insulting. If we are forced by the city council to accept anything close to this offer, we will be out of business. I am not against this development. It could be a positive thing for our community. I do believe, however, that we deserve to be given sufficient compensation for relocation to assure the survival of our business.

With this lack of interest in negotiating with us, I can only assume that it is the intention of the developer to acquire our property by eminent domain. Another reason for this suspicion is the fact that the developer has stated that our property is blighted. His reasoning for this blight is based on the fact that there are broken cars on our parking lot. I guess it is true. Blight is in the eyes of the beholder. What the developer sees as blight, I see as a successful auto repair business.

I used to consider myself somewhat informed. Before all of this began, I was under the misconception that governments had the power of eminent domain for such cases when the property in question was used for things as roads or schools. I truly believed that when a person worked really hard to create a home for their family or when one owned a small business and you made that business a success, no one could take it from you. Boy, was I naive. Taking property away from one private property owner just to give it to another private property owner, for economic gain is wrong and we need your help to stop it.

Don't get me wrong, I am all for commercial development. I am very much aware that every

city is dependent on its commercial tax base in order to remain solvent. However, the city should not be allowed to put people out of their homes or force small businesses out of business in order to attract such development. After all, America was built on a free enterprise system and development must be done through negotiation, not coercion. Imposing strict uses on eminent domain must be done for the protection of every man, woman, and child in of Missouri.

Thank you for your time and this opportunity to express my concerns.

JARRETT: Thank you. Any questions? Thank you very much. We're on number 24 on the witness list, by the way. Just to let folks know who signed up, sort of where there at in the pecking order.

Next we have John Scorse. Welcome.

JOHN SCORSE: Thank you. If I appear nervous, I apologize ahead of time. I'm not used to this, with such a distinguished panel.

I'll just try to briefly tell you a little bit about my case. It happened to involve a natural gas pipeline going through it, so it doesn't deal with the blighted, it has to deal with the present laws on eminent domain within Missouri and how landowners can be adversely affected related to it.

The case has been going on for approximately three years. There's a lot of different facts. I have a paper that I have provided to Sherry and I don't know whether you guys have copies or not, I don't think I need to really read through it. It's there and available. My largest concern is inadequate offers. Is there any means to set in law to have some type of just check and balance so that before you ever even get to court to help ensure that inadequate offers, are adequate. And true to the case.

In my case, we were offered \$9,000 to cross with a natural gas line, and with the restrictions

and covenants that they had within that easement, which actually placed financial burdens, future financial burdens, on the landowner to be able to cross and utilize the rest of the land, it actually placed those burdens on there, we were able to get our commissioners, our commissioners ward, to at least understand what those words in the language meant. We were able also to get testimony of what those type of costs can incur. The offer that the courts came up with, the commissioners, was \$357,000. I had offered one-tenth of the amount as a solution if they would not put financial burdens, future financial burdens, on it

I understand the need for eminent domain. I understand the need for the public access and those items. The problem I do have is public acts need for gas, versus a private company, and their profiteering from it and using eminent domain for the private profits and trying to use that as a tool to get — I saw very many, several land owners that did not have a means to fight them in court. We've spent over \$60,000 with attorneys fees, time, resources, just to be able to get to this point. Large corporations, billion dollar corporations, they don't care. We were told our second day in court, we've got 160 attorneys on staff retainer. Doesn't matter to us. We've already got them on staff and retainer. We'll just take you to court. Eminent domain law sets David against Goliath, and we the land owners are out there having to do that. And it's like, what do you do? We don't go to court everyday. For large businesses, this is their business. This is just business to them. This is our livelihoods. It's part of our family's and how we've been raised, related to it. Is it a financial gain? Is it a personal? Where do you end? Inadequate offers, attorneys fees and related expenses....there needs to be some checks and balances.

I feel, especially in my case at this point in time, it's like, what did I do wrong? I thought I was trying to be fair and adequate. I feel like I've been, you know, the laws have been used against

it. It's an abuse. It's just a plain blatant abuse.

Easements placing an undefinable future financial requirements to the landowner. How do you let that happen? Your law allows that to happen. It's whatever a utility or whoever's coming through that is using that needs an easement related to, they set what their easement's going to be. There needs to be some type of restrictions.

Eminent domain should be a point of last resort. Specific penalties and sanctions for abuses. They need to be in place. There needs to be something. Our judge said in December 21, I believe it was, 2004, required them to start providing us some documents that we've requested. They, we've been back and forth to court. We still do not have all those documents. The court date was originally set back in November. And when does it stop? When does, you know, the bleeding stop, related to it? I don't see an end in sight.

Disallowing the financial burdens to be placed on the landowners future financial burdens, our federal government doesn't even give carte blanche' lifetime easements. You look under the Bureau of Land and Management, they give leases, five and ten year leases. This would allow the landowner, if the values of the properties go up and those items related to it, at least, then okay, you're through there, I can't use this acreage, those items related to it. Make it as a lease. Long term leases, with time frames, you know, that renegotiate the price. So if the values of the property, that they're crossing and using it, allows it to go on up. So that way, they're not out future gains. Because that's why we bought the properties, typically, for future investments...for our grandkids..... to be able to have some resource to fall back on if we need it in our elder years.

I apologize for jumping around, I wanted to avoid reading this.

JARRETT: If you would, would you wrap up, please, for us?

SCORSE: Again, is eminent domain laws for financial gain or is it a point of last resort to be able to do something really for the public good? And that's my biggest concern, is where I see the law heading into other directions. And I think that's where a lot of people have concerns with what we've seen with the Supreme Court actions.

I do appreciate everybody's time and related to it. Just for your information, related to this gas line, the size and corridor of it, it will cost us over \$2500 per foot just to get access rights, is what our anticipated costs, to be able to cross this line. So a 40 foot drive, to be able to go in and out of it, you're talking over \$100,000. Landowners can be stuck with the way these restrictions are and the limitations on it can be very excessive within that.

I'll be glad to provide any information and backup related to that.

JARRETT: Well, thank you, thank you. Any questions? Yes, Leslie.

HOLLOWAY: What is the property being used for now? Is it farm land and could you talk a little more about the front, the access. I'm not clear on why you're having to pay for access to this land if it's turned over to the utility.

SCORSE: Basically, it's a 100 acre piece of property. Originally, when the gas company did the original proposal, they were almost going to go diagonally from corner to corner through it. I was able to get Senator Talent and Senator Bond, Senator Bond was very supportive in it, to get the Federal Energy Regulatory Commission to come back and look. They used a railroad trolley road bed as a railroad right-of-way, is what they told FERC, in which the trolley was taken out in 1930's, under a WPA project. So there's no right-of-way there. But we did have a power line, a high powered power line. We sit right next to a 600 megawatt utility company.

So when they came in, we were able to get it at least rerouted to the existing utilities with it.

With their limitations, they only have to bury it three feet, but the requirements are, like five and six feet of cover over it and special capping. Any costs like that, I'm responsible to add on those items, pay them, basically, what their easement says, I pay them any direct or indirect costs they deemed necessary, for me to cross their right-of-way. It's carte blanche'. No set amounts. Nothing. Just whatever they determine they want to charge me to be able to go across it.

I've been able to look at a lot of easements that have had these on them. I believe it was in Springfield, Missouri, there's some others that are around the area that when a business comes in and says we want to get some driveways across it, and we'd like to also increase setbacks for buildings. Instead of it being a 25 foot setback, they basically get their easement increased, doubled in this case, was a 50 foot setback, for nothing. But then also charged them to be able to put the roads across and those items. And then if they come back, in which their easements also state, that they can increase the size of the lines, the utilities, as they deem necessary, you pay for the expenses to rebuild your driveways and road across it. They are not responsible for those and it is right in their easements.

WRIGHT: Could you provide us a copy of the easement (inaudible)?

SCORSE: Oh, I'll be glad to provide you a copy of that, and also my neighbor's easement which a gas line went through seven years previous, and their easement says that the gas company, in this case, would pay for any relocation, as long as another easement was provided for that. And that's all I ask for was a fair and equal, and we'd be glad to deal on the price, so that way we weren't burdened with potential future burdens on there.

JARRETT: Thank you. Representative Hobbs.

HOBBS: Thank you, Mr. Chairman. Just for the committee's information, I've had some experience with the natural gas pipelines. I have four of them that go across most of my farmland.

And by and large, they've been a very good neighbor to work with and they maintain their easements and do a very good job.

But to give you an example of what this gentleman's talking about, little city of Hallsville, over here by Columbia, that's in my district, there's a planned bypass to go around that community. The main drag that goes through town, Highway B, it's very congested, very high traffic count. This pipeline comes in and goes behind the school, and the bypass would go around, between the school and where the football field's going to go. We have been trying to get that bypass in for several years. One of the sticking points, and the reason that MoDOT hasn't proceeded with the process is that since a highway's going through there, Pan Handle has to come in and dig up those lines, and replace them with higher gage lines. And the cost is prohibitive. We're talking in excess of \$400,000, for where that bypass would go through there. And so, we have been stuck on trying to get this through because Pan Handle wants MoDOT to pay for all that price, and the city has even looked at doing it privately, and they don't have the wherewithal to do that.

A year and a half ago, Pan Handle came in and started replacing lines and just, coincidentally, they replaced the lines up to where the flags are for the new highway on one side, jumped over and started replacing lines over there. When I contacted them about that, they said that they have had problems with those lines on either side of where the highway was going to go through. But they hadn't had any problems right there where the highway was at. And they were just replacing the lighter line, they weren't going to replace the heavier. This issue with, any time you have access over a pipeline, except for agriculture use, like in my fields, they require a heavier casing on their pipelines. They're good business people. They're going to try and get somebody else to pay for it. In this case it would be MoDOT, and the people in Missouri. So that's the situation he's facing.

SCORSE: This property sits in an enterprise zone. We know the development is coming, and going. We've been looking at trying to get it. I actually had two potential companies willing to come in, but because I could not define the cost associated to it, and actually the initial cost and sitting down and putting the numbers together, it's not going to happen. As they were going through, I would have been glad to say I need at least two drives going in here, heavy the line, do whatever. Just, there was no reason for them to work with us based off the laws in eminent domain in Missouri. They just said, we don't care. This is what we're going to do and that's it. Here's our offer.

Thank you.

JARRETT: Well, thank you very much.

Next, we have Richard Dellerman

RICHARD DELLERMAN: Yes, my name is Richard Dellerman and I live out in the Ozarks and nobody seemed to be covering anything about what's happening in the Ozarks, but I'm sure a lot of you know the dangers of today of owning property out in that direction. Okay, the following I have wrote — I 've had strokes and I have a hard time talking so I'm reading what I wrote.

The following is Texas County citizen's plea for our Constitutional rights to our own purchased and registered land and the freedom to use and to protect our laborious developments.

Okay, I retired and I'm sixty-five years old. I retired, I got a hundred acres and I planned on being buried there and having my grandkids and great-grandkids live there. But I also know what's going on out there so it's like I'm almost think I'm going to be forced to move out before the land value goes down.

Okay, we've been talking about what's been going on, but who's behind it? And I got to

where I found out what I think is what we have to – what’s happening here. Let me read this to you on the agendas.

We do not need to lose any more of our land to UNESCO’S World Heritage Areas. You know like Yellowstone had been handed over to them and all our waterways, and such, has been handed them. Okay, we need to be suspicious of their UNESCO’s trained environmental NGO’s. UNESCO trains them. We don’t need more social oppression. We need to stay free from foreign lawmakers, the aristocrats of privilege and rights by position of power of authority. World financiers of the World Trade Organization continue to entice revolution, I’m almost seeing that developing down in the Ozarks, by their imperial economic control. This is why I believe it is so incredibly important to realize their agenda. Their issues are in the interest of having sustainable resources for trade to help solve world problems of poverty. They force the relocation of indigenous people thereby consuming more of our national land and putting this land under the management of international trade and financier corporations. These are the corporations that a lot of people have been talking about today.

It sometime becomes overwhelming how the world international financiers and its industrial trade giants have integrated their agendas into the laws of all civilized nations, including ours, which that’s what we’re talking about today and I found that is been into the agenda of the UN’s bi-yearly or whatever, whenever they get together. It sometimes becomes --- okay, let’s see -- . Developing a sustainable environmental guideline requires the participation of all countries with their judicial and administrative proceedings at their local level of government. The following information identifies the world banking powers of industry that influence our federal and state laws.

One is decertification law that they passed, that some of the senators been having such a

squabble about how they snuck it through. Former President Bill Clinton had incorporated the UN's Decertification Treaty in many federal agencies before the U.S. Senate ratified it in 18 October 2000. These directives were designed to stop the unsustainable land management practices of local communities. These requirements are to combat decertification through innovational local programs with international partnerships as, now this is in the law book, this isn't what I wrote, this is what I copied what decertification says it is and one of the articles - I'll skip some of these others: Article 18, 1(e) to create domestic market conditions. So of course that's what we're talking about, to create market conditions.

Another executive order, the Executive Order 13158 titled Marine Protective Areas say to enhance the conservation of our nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations. To this end, the purpose of this order is to be consistent with domestic and international law. There we go again, international law. President Bill Clinton appointed Mr. Speth in 1993 to 1999 to take Mr. Draper's place in the UNDP - United Nations Developmental Plan Organization. Mr. Speth extended the environment policies with a plan called "Sustainable Human Development." The World Trade Organization shared the same goal as the UNDP. They received financial and administrative support from the World Bank's newly formed International Center for Trade. We're into trade again. The WTO is to oversee the agriculture agreements, like the Free Trade Agreement, Trade and Service Agreements, and a trade-related aspects of International Rights Agreements. The Multilateral Agreement on Investment (the MAI) is a Bill of Rights for investment Corporations. It stipulates.....

JARRETT: If you would, Sir, wrap up for us in a few seconds.

DELLERMAN: Okay. That the foreign investment have the right of entry into any country

and treated as equally as the nationals of that country. They can invest in any sector of the host country.

Now, Missouri Governor Matt Blunt, Executive Order 05-15 makes this his own executive order, it says: Whereas, the court decision greatly expands the rights of government to seize private property - a home, farm, a small businesses - and give it to other private persons or entities so they can generate greater tax and stuff.

Dear Mr. Blunt, By the guidelines of the National Environmental Protection Act, Texas County citizens developed a Land Use Management Plan. It gives guidance for this democratically elected officials of Texas County to implement this plan. The primary goal is to protect the customs, cultures and environment of its citizens. It is to protect private property, facilitate a free market economy and establish a process to encourage self-determination by local communities and individuals. This Land Use Management Plan was written up as a legal document to keep out foreign powers from restricting private citizens of their freedom to use and keep their own private land.

JARRETT: Thank you, Sir. Any, any questions? Thank you very much.

Next we have Allen Garner.

JARRETT: Good afternoon.

ALAN GARNER: Good afternoon. Again, Mr. Chairman, members of the task force, I appreciate the efforts that you are putting forth on this topic. I will try to be brief and point out a few things that I think need to be remembered as you look at a number of issues. The couple of handouts that are being provided, one is courtesy of the Missouri Municipal League. It's a result of a collaboration of a number of attorneys trying to set out areas of law that need to be reviewed.

Little background, I'm currently the city attorney in Independence, Missouri - forth largest city. A combination of both suburban and really urban in one town. If you, as you've sliced the areas, we have an a number of problems that would be unique no matter whether you called it suburbia. If you get out on the extreme edges, it starts to have some of the characteristics of even rural and if you get into the oldest section of town, it looks very much like a traditional urban center. So we have a wide range of issues.

Prior to being in Independence, I was in Jefferson City for a number of years. Again, a different set of issues related to eminent domain. I also served as the city attorney for Eldon, Missouri, for over 25 years. Again, another setting, a different set of problems.

Some of what I would want the task force to remember is necessity has always been a big element in the use of eminent domain. The checks and balance in the current law, while in some areas as you've listened, may not be fully adequate and other areas seem to work quite well. Most elected officials are as property rights centered as those you've been hearing from. Those people that we deal with on a daily basis when we're trying to expand a street, when we're trying to build a park, when we're trying to fix hundred year old storm sewers and sanitary sewers, those people are going to still be constituents of the elected officials. We're still going to try to serve them to the best of their ability.

One of the things I've provided is a list of projects in the last five years carried out in Independence where we had to acquire a number of parcels. Ninety-five percent of all parcels were acquired without the use of eminent domain. Seventy-five percent of all of our projects had no use of eminent domain. We go out and work with the citizens. We are up front. We have a process that we've used that we believe follows the existing law where we contact people, we make, what we

believe is a fair offer based on a real estate expert's opinion as to the value - we extend that.

One of the other things I think that's very important to remember is that the period of offer and negotiation is critical and it really doesn't matter what you're doing, to some extent, doesn't matter which area, because at that point you're able to do some things flexibly that tend to disappear when you get into the formal process. The formal process often becomes a part about how much money and not about can you fix my driveway, can you save my tree, can you miss my rose bushes. We do that continuously and that's why we have over ninety-five percent success rate in those projects.

The timeliness that's been mentioned, again, within the existing framework, we are able to start and finish most of the acquisitions for our projects well under a year. Some of that has to do with the amount of effort that is put forward and its back to the people involved in any given project. I would not pretend to tell you that everybody that goes out to acquire real estate is going to look out for the good of the whole community. Yet that is the task for local officials. Their job is to look out of the good of the entire entity.

One project that is in the material in Independence that we're approaching the conclusion is Chrysler Avenue. This is a project that started decades ago and has taken quite a bit of time to get to completion. The impetus for doing the project was public. Public members came forward and said, this road is not up to par. It needs to be fixed. The traffic is not appropriately handled. You can't get to and from places you want to get to and from. And they requested their elected officials to do something. With that kind of support, with public hearings over a long period of time, with funding finally put together, when we go out to do the project there were, and this is true not only that project but it will be true of future projects, there will always be one or two people, maybe more on some

projects, for various reason, that do not want the project to touch their property. And that's where our use of eminent domain is most common, where we're trying to get the last piece necessary to connect the road, connect the sewer, to connect the storm drain.

I'll also tell you as you wrestle with the economic development that you have some fun in the definitional sections because one of the phenomena that occur in cities, in the countryside, in suburbia, if you build it they will come. So you go out on a pure fix the road, fix the sewer, but now it's there. When you started out, you had no intention to attract, and it doesn't matter who it is that shows up, we don't always know in advance, but somebody will show up. So when you start looking at words and word smithing you need to remember that you can find economic development behind almost anything public improvement if you define the term too broadly. So it will be very important to keep that focus narrow.

I think the issues in economic development are more dramatic sometimes because you can see the money and the money is all talked about in relationship to the project. But the day to day business of most local governments is centered on their ability to get out there and finish those public improvements and I think it is very important that you focus on that. Again, if you look at the handout it will show public works projects, kind of the straight forward, nobody really questions the public purpose. You get into railroad areas, again, a strange area of the law to some of us because they have rules that the rest of us don't have. Then you get into some utilities and they have different sets of rules depending on which type of utility you're dealing with. And then you get into the redevelopment projects. I think it will be important that that type of division and that type of thinking may be as important as the rural, suburbia, urban issue because it has to do with where the property ends up.

I'd also like to comment on a couple of ideas that have been floated and one is the reversionary interests. If you study property ownership, there are those who will own their property and stay in one place. There are also a large number of people in our population who have a tendency to move every three years. If you start having to find those people twenty afterwards to try to have a reversionary interest, you are going to have fun. One of the things we end up using eminent domain for now is to cut off un-findable people's interests, the missing property piece that disappeared into the haze of history but we have to get clear title in order to build whatever we're building. So when you start thinking about reversionary interest, it gets out of eminent domain and quickly gets back into pure property law and I think it is very important to remember that.

I would also mention that on some economic development projects you can start out with everybody in good faith and everybody relatively happy, but you need a piece of whether it's connecting roadway, whether it's sanitary sewer service, you need some piece. How are you going to segregate that from the overall project and what kind of a label does that get? I think those types of issues are going to be critical when you start trying to take the ideas and put them onto paper.

On behalf of both myself and the Municipal League, I'd also offer whatever services I could be to the task force. I would be happy to work on this. I've worked on any number of different projects, all generally from the public law perspective. And I'd be happy to answer any questions you might have.

JARRETT: Well, thank you. Any questions?

GARNER: Thank you.

JARRETT: Oh, and thank you very much. Next we have Dave Ramsay. Welcome.

DAVID RAMSAY: Thank you. Good afternoon. My name is David Ramsay. I'm the city

attorney for the city of Gladstone which is a suburb of Kansas City. I hope some of you at least are familiar with it, 27,000 in population.

I'd like to preface my statement because just from a matter of perspective. I have lived in Gladstone since I was fifteen in 1962. I have been a property owner in the city of Gladstone since 1976. Serving my hometown as city attorney is critically important to me and the welfare of my hometown takes precedence over any business profit or other concerns that have apparently arisen in some other parts of the state.

I'd like to point out just by way of an anecdotal example, a problem that Gladstone is facing. We have a shopping center on one of our main streets. It was built in the sixties. It's owned by a lady who owns shopping centers throughout the state, lives in the eastern part of the state, has virtually made no investment in maintenance for the last ten years. Our city council has repeatedly attempted to have this property upgraded. Has attempted to enforce our code regulations. We have expenses, not only of a blighted property, and by the way the city council through public hearing process and consistent with Missouri statutes determined this property to be blighted. It's less than 40 percent occupied. It has the largest store is a grocery store. It is not secured. It is frequented by vagrants, people light - start fires in it. It's a wonder that it hasn't been burned down or spread to the entire shopping center.

So there is another side of the issue of eminent domain and the exercise of eminent domain to try to get areas such as this shopping center in older communities redeveloped. And when a property owner no longer has, apparently, no longer has economic incentive to keep that property up and no interest in the community itself then the community needs to have the authority for the betterment of the entire community to step in and have some authority, even if it's for economic

development, to take that property and put it to good use.

I think the Wallach's early on made some very good points about some changes that may be beneficial in our laws, but let's not go to the extreme, as I've heard some people say, of limiting or prohibiting profit from these developments. The reason you do economic development is to induce a private company or a private developer to come in and build something that would be beneficial to your city. They have to make a profit. And I would suggest to you that the various actions by the Governor, by Governor Blunt and by the General Assembly, during the last general assembly session, which the Governor terms business friendly efforts to make Missouri more attractive to business are going to have little affect if, little affect in attracting business or in getting businesses within Missouri to expand and bringing the jobs and other economic benefits that flow from that.

Those actions, tort reform, workers comp reform, those things are going to be meaningless if we can't, as government political subdivisions, assemble the land that those businesses need in order to locate within our community or expand within our community. Certainly eminent domain is an important and historic power in our nation. The Fifth Amendment emphasizes just compensation. There's no prohibition against taking property. There's a prohibition against -- or there's a requirement of just compensation. I think if you're going to recommend some narrowing of the economic — of the use of eminent domain for economic benefit, you need to realize that you're going to have a negative impact on the ability of political subdivisions to attract business, to redevelop their areas and I just ask that you consider those possibly unintended consequences as you consider your recommendations to the Governor. Thank you.

JARRETT: Thank you, Sir. Any questions? Senator Gross.

GROSS: An easy question for you. Outside of the blight situation, you were talking about

the shopping center, if we get right to the matter of, at least the way I look at it, a Kelo type of Decision where there was no, no real blight situation, it was just some houses that were in the way. It wasn't, you know, vagrants or public threat caused by the fifteen or whatever it was property owners sitting there. In the city of Gladstone, or anywhere else in Missouri, where you don't have a blight situation, or you just have private property that somebody wants to keep, and we're pitting – whether it's a business or a home, or you just have one business owner against another one, or one private interest against another one, is there a reason that we should allow eminent domain to be used?

RAMSAY: No. As a matter of fact, I don't believe Missouri law allows it now.

GROSS: You don't think we're in a situation -- you don't think that we have actually an issue to deal with similar to what they had to deal in Kelo?

RAMSAY: Missouri law requires public hearing, a redevelopment plan, and that plan to be carried through. You know, I think it's over simplifying what occurred in Kelo to say that it was just taking of an area and handing it to a developer. The laws in Connecticut

GROSS: It was more complicated than that.

RAMSAY: Right. The laws in Connecticut are different from Missouri's. But essentially, they had public hearings and they developed a redevelopment plan before a developer ever showed up. So this isn't a case of, of a developer coming in and saying to a city council, if you will snatch some property, we'd be happy to take it over for you.

GROSS: Okay, fair enough then.

RAMSAY: I certainly don't espouse that. I mean, that should be a critical protection in our laws, but I'm not sure that it's not there now.

GROSS: So then just to make -- okay, so you don't think that our laws and our Constitution would allow for a taking such as happened in Connecticut?

RAMSAY: Absent of finding of blight, absent an overall redevelopment plan — no. absolutely...

GROSS: Redevelopment plan, that's where

RAMSAY: In other words, in Missouri we would have...you would have to have, the area would have to be subject to a redevelopment plan that is approved by the city council.

GROSS: I understand.

RAMSAY: Yeah

GROSS: I'm still talking about a piece of property that's not blighted. That is not otherwise a harm to the community or a danger to the community or anything else. But again, no matter how we want to define how they got to the end result in Kelo, they still got a piece of private property that ended up going to a private entity. No matter what was involved in the middle. And so now you've thrown in, in your answer, and that's fine, but I want to understand what you're saying. So you think absent of finding of blight there could not have a Kelo-type Decision with the exception of when they have established or introduced a redevelopment plan.

RAMSAY: No. I think it requires two things. It requires a finding of blight. Then based on the finding of blight it requires the public entity to have a redevelopment plan for the area that has been designated as a blighted area.

GROSS: So without blight in Missouri, we don't need to worry about private property being taken and given to a private developer?

RAMSAY: Not for economic development. Now, based on the Sunset Hills testimony, I

would say that at least in Sunset Hills the blight designation either was not properly applied, whatever, I'm not familiar with that case.

GROSS: I'm not either.

RAMSAY: But I would be surprised, based on the testimony that I heard this morning, that a court would uphold the actions in Sunset Hills.

GROSS: Then of course, then of course, we get into the definition of blight, which is a separate question. What's blighted to me versus blighted to you is something different and we'll go there another time.

RAMSAY: Right. And as I'd like just to point out, as the Wallach's said this morning, that's probably an area that could use some tightening under Missouri law. Now, I might also tell you just briefly, Gladstone has never used eminent domain for economic development. The shopping center I was speaking of, we may eventually have to use it in order to get it redeveloped, but we've never used it the past. I think for cities our size, at least in the Western part of the state, predominately those cities haven't used eminent domain for economic development purposes.

JARRETT: Any other questions? Oh, I'm sorry. Oh, Spencer, yes.

AUDIENCE: Hand the microphone.

JARRETT: Go right ahead, you're up.

THOMPSON:attorney for municipality and one that's landlocked at that, if I'm not mistaken, Gladstone has nowhere to grow because it's surrounded by the city of Kansas City on all four sides, is that right?

RAMSAY: That's correct.

THOMPSON: What is your, what would be an example or two of some worst case scenarios

that you could see coming out of changes in the law? In other words, what would be, what is it that you fear the most or that your client, the city of Gladstone, fears the most might come of all of what we're doing here?

RAMSAY: Well, as an example, this shopping center. If we had no recourse to eminent domain, under any circumstances, to accomplish the redevelopment of the shopping center, ultimately that area would just continue to deteriorate, continue to be a negative burden on both economically and socially on our city. So I don't think you can absolutely prohibit eminent domain for economic development.

JARRETT: Anything else, Spencer?

THOMPSON: No.

JARRETT: Thank you. Representative Hobbs, did you have any questions?

HOBBS: Yeah, I do. Thank you Mr. Chairman. Could you -- have you already designated this shopping area blighted?

RAMSAY: Yes.

HOBBS: How long ago did you do that?

RAMSAY: About twenty months.

HOBBS: About twenty months?

RAMSAY: Uh-huh.

HOBBS: We've heard some testimony here today where areas have been designated blighted and in sometimes it might take ten or even twenty, thirty years to follow through to the end of that. Do you think after that's been designated blighted, then are you using that as a tool when you are negotiating with the private landowner, saying the area blighted, it's not worth as much as it could

be, you need to go ahead and settle with us. Is that part of your negotiation tool?

RAMSAY: No. I mean we don't --- obviously the landowner knows that it's blighted. The landowner was represented at the hearing and certainly argued against that designation. We have, we are using, in our negotiations, appraisals that we obtained before the blight designation and adjusted currently. So we're not telling the property owner that now that we've declared your property blighted, it's worth less and you should sell it to us for less than what it was worth prior to that designation.

HOBBS: Well, do you think that might have an affect on whether or not businesses would move into that shopping center? Do you think that folks knowing that that shopping center is declared blighted now, it might scare them away from moving into that because they know there's the very good possibility that that shopping center is going to be torn down in a year or six months or two years?

RAMSAY: It might. I guess it's — the problem is, we didn't create the blight. And there were tenants moving out of that property in droves. And we've had, at city hall, a number of complaints from tenants saying the roof's leaking, there are holes in the drive-ways, they aren't picking up the trash. I think those factors have a lot more to do with discouraging tenants than any action by the city. We've invited the homeowner, the property owner, to make a proposal to redevelop, upgrade, the center and have gotten no response.

HOBBS: One other question, the appraisal you do on that property, if you get to the point where you're looking at the fair compensation, will that appraisal be done sometime in the future or will you go back to the day it was designated blighted?

RAMSAY: No. It'll be done in the future. Because it'll have to be current. And, frankly

our appraisal to this point, since we didn't have the cooperation of the property owner, does not take into account all of the factors that a full blown appraisal would and should for — if we were in a condemnation situation.

HOBBS: Well, I think you can see where I'm going here. There's a little disconnect there because on one hand you're telling an area that your area is blighted and if, since you haven't taken care of your property, we're going to deem it blighted. We want to work with you. We want to take this property or settle at a price with you. But it also, after it's designated blighted, you can see where that landowner says, well I'm not going to spend any money on this because it's eventually going to be taken from me by condemnation. So in turn, the value of the property continues to decline and then their base, that their compensation is based on, sometime in the future after more businesses have left, the natural downturn of things — it all started with the designation of blight. It didn't get better after it was designated blight. So that's some of the concerns that we're hearing in front of this commission, so I really appreciate your help on this and your honesty in your answers. Thank you, Sir.

RAMSAY: Thank you.

JARRETT: Any other questions? Mr. Ramsay, thank you.

RAMSAY: Thank you.

JARRETT: Appreciate it. Next we have Tom Barzee.

THOMAS BARZEE, JR.: Mr. Chairman and may it please the committee. Thank you for giving me the opportunity of appearing before you today to address an issue that is concern, I think, of great concern to each of us and that is the wise and proper use of the power eminent domain in the state of Missouri.

My name is Thomas E. Barzee, Jr. I am the city counselor for the city of North Kansas City, Missouri and, in that capacity, I appear before the committee today for the express purpose of respectfully emphasizing the need for our cities to have the continued ability to address fundamental urban renewal needs, which, if it is to work, must necessarily include some process to acquire property even when a landowner does not wish to sell his or her property.

The city of North Kansas City, incorporated in 1912, developed as an industrial city, and consists of 4.3 square miles and is located in Clay County immediately across the Missouri River from downtown Kansas City, Missouri. North Kansas City is fully developed and is totally landlocked. The city's growth and vibrancy will be through the continued and constant maintenance of its existing buildings and structures and, where necessary, the renovation and even replacement, of some of those improvements.

Prior to my becoming the full-time city attorney or city counselor for the city of North Kansas City a little over three years ago, I was in the private practice of law for twenty-five years. During that time our law firm handled and tried many, many, many condemnation cases in both federal and state courts. During that time period, our firm represented landowners most of the time, but we also represented various condemning authorities such as power and light companies, municipal corporations, and redevelopment corporations. As such, I believe I have a good understanding of not only the condemnation process and procedure, but also the underlying issues that arise in such cases, including certain problems and some of those potential problems I will attempt to address here today to you. And I will attempt to give, what I believe, some potential resolution for those problems.

I think we all understand that the battles over urban renewal highlight a critical tension in

American law and politics — the struggle to balance the rights of individual property owners against societal interests in the development or protection of scarce resources. It has long been accepted that the sovereign may not take the property of *A* for the sole purpose of transferring it to the other private property owner *B*, even if *A* is paid just compensation. Yet, have there been instances where perhaps this fundamental legal principle may have been overlooked or even ignored? Probably so. Does this require a complete and total revision of the entire system? Clearly not.

A fundamental and basic right in this nation is that private property shall not be taken by the sovereign except for a public use and upon the payment of just compensation. In those limited number of situations where it is appropriate to acquire a landowner's property through the use of the power of eminent domain, the standard for many years has been that the landowner should be placed in the same position pecuniarily as he or she would have been had his property or her property not been taken. This standard may not have always been met. Nevertheless, I submit that such a standard is in fact obtainable.

At least since the holding of the United States Supreme Court in 1954 in *Berman versus Parker*, the means by which urban renewal condemnation takes place has been authorized by applying some form of a blight standard. Unfortunately, over the years that standard has not always been uniform and consistent. The problem has developed, leading at least in part to landowners challenging some uses of the power of eminent domain, is that blight is defined differently in different ways under different circumstances and under different statutes. Whether a parcel of real property meets the definition of being blighted many times varies from one case to the next, unfortunately, depending upon the applicable statute and how a particular city implements the process. Almost assuredly, there have been inconsistencies in the application of the blight standard,

primarily because there is a lack of a constant and consistent definition of the term blight in our statutes. For example, under current Missouri law, blight is defined and applied differently under the Real Property Tax Increment Allocation Act, the TIF law, and The Urban Redevelopment Corporations Law. When you look at those two statutes you will notice that blight is defined differently there. This problem can be rectified by passage of appropriate legislation defining blight with a tight and measurable standard, a definition clearly understood, easily applied, and uniformly interpreted.

I think an additional problem, and probably unless you've tried condemnation cases you wouldn't pick up on this, an additional problem in our current procedure for condemning property for urban renewal purposes which effectively denies landowners of a meaningful appeal of a trial court's initial order of condemnation is set forth where, under Missouri law, a condemning authority obtains title to the property as soon as it pays the commissioners' award into the registry of the court. Consequently, by the time an appeal is perfected, the landowner's property may not have been taken – may have been taken and, in all likelihood, put to a different use. Moreover, in order to appeal the issues raised in the initial condemnation hearing, mainly does the condemning authority have the ability and the legal right to condemn the property for a public purpose and use? At that stage the landowner, if he wants to pursue that on appeal, he may not withdraw his money from the registry of the court. In order to maintain that right of appeal he must, in fact, leave the money in the registry of the court. And what happens? What happens is the following: It may be a year, or more before he has his day in court on the just compensation in front of the jury. And then at that time, at that time he gets to be paid. Well, the problem with that is, realistically a landowner desiring to appeal the propriety of the condemnation order must refrain from withdrawing the amount deposited into

the registry of the court, thereby denying the landowner of both his property and the compensation paid therefore.

Now Missouri law does not authorize any form of interlocutory appeals in such cases. If a landowner believes that he's being, he or she, is being hurt in some way by the order of that trial court the only the option that he or she would have at that time is to file a petition for an extraordinary writ. The problem with that is an extraordinary writ is just that, extraordinary. It's not regularly granted by the courts. I believe that my last research reflected that in less than five percent of the time it's granted. The problem, therefore, I believe that what we end up with is we end up with a dissatisfied landowner with no meaningful appeal of the initial holding by the trial court until the entire case has been concluded and a final judgement rendered after the jury, after the jury trial on the just compensation issue.

JARRETT: If you could wrap up for us.

BARZEE: Absolutely. I believe that in order to better protect the interests of the property rights of landowner's that there is, in fact, a way that we can define blight properly. That we can provide for the protection of the interests of individuals by, in fact, providing for certain types of interlocutory appeals, and I might submit to you that should only be in a very narrow, limited situation. Candidly speaking, in cases where, and I battled many times with the Highway Department on behalf of landowners, the problem is it's rare when you have a bonafide complaint that they don't have the ability to proceed with their projects. So most public projects should not be affected. But when you have landowners concerned about a finding of blight, for example, whether or not their property is or is not blighted, I believe that needs to be addressed. So I would definitely carve out an exception for them.

Finally, has the city of North Kansas City implemented any urban renewal project under one of our applicable Missouri statutes? Absolutely. Using the TIF statute, we did, in fact, condemn 666 apartment units here a couple of years ago that clearly needed substantial help. There was one of the units that was even referred to as the Jurassic Park unit. Grass was growing inside on the floors and mold had covered the entire unit and there were no fire walls, so this mold spread throughout, in fact, many, many, apartments. In fact, the only complaint we had was from the owner of the property, not from any of the tenants. They were named in the condemnation case. We did have to condemn the property. We condemned the property. If you're in Kansas City, I would invite you to come and see what's happened. It's a wonderful project. Millions and millions of dollars have been spent, not for -- there is a small commercial section, most of it's for single family residential purposes. It's a wonderful project. One that, I think, should be a model for what can, in fact, the laws should provide for, allowing this to clean up the urban core when we have obvious urban decay.

Thank you very much for your time.

JARRETT: Thank you, Sir. Any questions?

WRIGHT: I have a question. The designation of blight occurs sometimes years before a condemnation petition is filed. Obviously, you may have a bunch of tracts that you go out there and you negotiate and you voluntarily acquire as much land as you can. What you can't acquire voluntarily, then you condemn. What are your thoughts on ability to challenge the blighting designation at, say, at earlier stage than when the condemnation petition is filed -- in -- when the blighting statement and facts have been made by the city council?

BARZEE: I believe that that would be excellent and the reason I believe that would even be in the best interest of the municipality. Last thing a municipality really wants is for -- to go all the

way through a jury trial, they've paid the money into the registry of the court, taken possession of the property, start renovation, start tearing down buildings and then there's finally a determination after maybe things have already been torn down and everything and who knows where that would leave a municipality should that, in fact, occur. I believe that some early stage, even perhaps before there is a condemnation petition filed, I think it would require careful crafting of legislation, because as we know our courts are prohibited from giving advisory opinions, but I think legislation could be crafted to do that. Because I think most cities, what we really want is the ability to clean up what I think everyone in this room would agree, is urban decay. It's true what we — I think that we've continued to go further and further with what blight might have meant back in the 1950's when our legislation was first enacted and maybe it has gotten a little out of control. But cities have to have an ability to clearly go in and clean up properties and they need to be able to do it in a relatively short period of time, quite candidly.

JARRETT: Representative Hobbs?

HOBBS: Thank you, Mr. Chairman. I don't know if you can answer this question for me. I think you can. When the appeal process does go into effect, and right now that's after condemnations have already been started, who does the appeal go to?

BARZEE: Well, after the — we have, the process is, as you know, in a condemnation case, it's a bifurcated proceeding. In the condemnation case I just told you about for the city of North Kansas City, we had a four day trial on just the issue of whether or not we could condemn the property. But then after that, if there had been — we settled the week before the trial was to begin for the jury, that was a year and a half later, that, if you're talking about there of course, that appeal at that stage would go to the appropriate court of appeals from the circuit court governed by that

particular appellate court and we have three districts, as we all know, in the state of Missouri. So that's where — what I'm talking about from — if that's what you're referring to...

WRIGHT: (inaudible) jury process.

BARZEE: It would be after the jury process, correct.

WRIGHT: At the time of appointment of commissioners, a court makes a determination of public purpose.

BARZEE: Correct.

WRIGHT: Whether you have authority to condemn. It is possible, correct me if I'm wrong, it is possible to try and appeal that decision, except you have to follow the extraordinary writ process, which is very difficult to get a writ.

BARZEE: I have a little bit better track record than the five percent but I'll tell you this, it's not very frequent that you're granted an extraordinary writ. I know, Mr. Wright, you know that from experience. It just doesn't happen often. Because that's extraordinary, meaning the court does not have to accept it like an appeal. If you follow the proper guidelines and follow your paperwork right, you get an appeal, but not an extraordinary writ.

HOBBS: You know, as we were talking about this, if you were able to appeal that blight designation as soon as it was granted, the municipality, the city council was essentially the group, am I correct, that designates it blighted?

BARZEE: Correct.

HOBBS: We just passed legislation in the Missouri House and the Senate this year, I was the sponsor of it — we had a situation with the Department of Natural Resources, if you go before certain commissions and they had a finding against you and you appealed, your appeal went to that

same commission. And you had about as much luck getting your appeal overturned as finding a blue moon. So what we did is went sent that to an Administrative Hearing Commission at the state. I think if we did set up something where you had appeal process for blight as soon as it was designated, we would have to find a different authority to take that appeal to or we would be going down the same road.

WRIGHT: I think you could look at how you craft the legislation.

BARZEE: Correct.

WRIGHT: Whether it's through the normal courts or some administrative process. But it struck me that you, just like you can have declaratory judgements with respect to people who have rights to challenge ordinances. Happens all the time. So you do have a case in controversy. So it seems to me you may be able to craft something along those lines that would this to go to the circuit court, the principle trial court and from there you can have an opinion.

BARZEE: And that would be -- I would certainly suggest that that would be it and you would simply craft it in such a way that that particular circuit court judge would be prohibited from hearing anything else (inaudible). If it proceeded to condemnation that circuit judge would not have the ability, I would suggest, to hear the rest of the full condemnation case. But I do believe the courts are probably best equipped to do that because they are used to hearing evidence and especially if you have a carefully crafted statute that they can follow and it be consistent from across the board and not have a difference, blight, for example. And I would say that this probably should only be found in cases where there's blight. In spite of my many years going against the Highway Department, I believe that that would be detrimental to the growth of the state of Missouri and all of its residents to deny the ability to condemn property in a very expeditious manner for schools and

roads and bridges and things that we normally expect to have condemnation for.

HOBBS: I agree with you. I think, in this aspect, we're just looking at the private to private portion of that. Thank you gentlemen. You've clarified a few things for us. Thank you, Mr. Chairman.

CARMODY: If I may, one more thing, Sir. I think that the difficulty on a declaratory judgement action that we see today, is that even if a declaratory judgement action is filed as soon as the declaration of blight occurs it is – the burden is now upon the municipality to impose its own self restraint and not proceeding, unless there's injunctive relief granted. So the difficulty right now is to have the municipality say, we will wait for the judicial declaration before we go out and condemn. So I think that's something that we need to address or at least look at. But I'm interested in, in the situation in terms of appealing when somebody's property is being taken private to private and so forth.

What you talked about in terms of the right to appeal, what we are faced with today is a situation where somebody's business or property is taken, commissioners make a finding, money is paid into the registry of the court, the property owner suggests that's not enough or, more importantly, I want to challenge the right for this entity to take it. In order for that person to get a new home or a new business, they need to take the money that's been deposited to use. Under today's scenario, if they take that, they cannot challenge or question whether or not that entity had the right to take the property.

BARZEE: That is absolutely correct.

CARMODY: What is the justification, in your view, for that present rule of law other than to ensure that there is no later judicial determination that the taking was inappropriate.

BARZEE: The justification for it, I'll let others maybe speak to that, but I will say this, we in Missouri, I think, our appellate procedures are extremely clear. The courts have said that we only handle final judgements, final adjudications and that adjudication in a condemnation case is not final until the jury has handed down its case. That's why even in cases where you have multiple parties, if you finish it to one it's not finished for appellate purposes for everybody else until the entire case ...

CARMODY: But this isn't a principle of finality, this is a principle of waiver, isn't it not?

BARZEE: That is correct. They end up waiving that right and that's why I speak, and I might be kicked by some of my other colleagues here, but I've always felt that that is not fair to a landowner to put that burden when there's a clear question of whether or not the sovereign had the ability to take your property like it's been discussed private to private. Okay? I'm not talking about your traditional condemnation case. And I -- it puts them in such a difficult position for what you just said. They don't have the ability to challenge it because what happens then? They have to draw down the money, in most cases, so they can go buy another house. Because once that money's paid into court, they legally take possession of the property by operation of law. So their choice is either A, draw down the money so I can go buy another house or invest in another business or B, leave it there for a year or more and hope that I'll have an opportunity to challenge it.

Now, like I've said before, the downside though to a municipality is, I've tried thinking this through, what happens if you go out, they leave their money in, they've torn down the guy's house, it goes all the way to the Missouri Supreme Court and the Supreme Court rules in favor of the landowner? Unfortunately, all he's probably going to be left with still is the value of the property we only can compensate someone. So I'm not really sure what was accomplished even there,

because once it's torn down you can't do much about it to really put it back.

JARRETT: Thank you very much.

BARZEE: Thank you very much.

JARRETT: Appreciate it. Next is Mike MacPherson.

MICHAEL MACPHERSON: A few housekeeping items first please. You should have in front of you a booklet and the booklet will contain a copy of the testimony that I am going to offer. When I refer as you open it, there will be a document there and when I refer to the Jordan Valley, or excuse me, the University Plaza you will see a photograph like this and I think it is very important. I don't think I can justify it with words, so I thought you ought to be able to take a look at it. Then when I talk about the Jordan Valley Park, where I had your testimony in the center, you can see basically that all of the facilities that are contained within the Jordan Valley Park that I will be referring to.

My name is Mike MacPherson. I want to thank you for providing the city of Springfield with an opportunity to testify today. I am employed in the city of Springfield's Planning and Development Department, as a member of the Economic Development Team. I have worked in economic development for 26 years in both small rural communities and in urban centers. On behalf of Springfield's city government, I want to urge continuing support for the ability to use eminent domain as a resource to acquire properties for redevelopment purposes. While the primary focus of my testimony will be economic development matters, I will also cite examples of the need to access sites that have environmental or contamination issues.

First of all, the city of Springfield has been cautious and conservative in the application of eminent domain authority and my testimony today will reflect that conservatism as well as highlight

the safeguards exercised to protect individual property rights and provide appropriate compensation to those who are impacted when the authority in fact is exercised.

Let's view some of our major projects. The first major project was the renovation of Springfield's downtown district began in 1984 with what you have in front of you, the University Plaza Project. The project included, upon final development, a major hotel with convention facilities, a seven-story office building, a high-rise office building, a residential condominium building, the Federal Courthouse building and a building for the Chamber of Commerce. The project required the acquisition of 65 different properties all purchased by the Land Clearance Redevelopment Authority, a public arm of the city. Only two of the properties were settled through the eminent domain process and in both of those cases, the issue was not the acquisition, but rather the price. The eminent domain process produced a fair market value that was acceptable to both the property owners and to the city. The University Plaza project not only provided the first real investment in a downtown in over 20 years, but also provided significant jobs, upscale downtown living and office space, and a facility to bring in major conventions to the city. The economic impact of this project is and was phenomenal. More importantly, the project provided a momentum for reinvestment downtown in Springfield that continues today.

The Jordan Valley Park is an extension of the University Plaza project, and in fact is adjacent to it in part, and it's the dream of Springfield citizens who created the concept in the long-range comprehensive plan called Vision 20/20. To date, more than \$200 million in private and public injection has been invested in the 300 acre park. The investment so far includes a new hotel, convention center, ice rink, parking deck, as well as park green space and walking/bicycle trails. A new 9,000 seat state-of-the-art baseball stadium is now headquarters for the Springfield Cardinals,

a double A team affiliated with the St. Louis Cardinals. In addition to these facilities, the city has acquired the blighted MFA Mill complex and conveyed it to Missouri State University. The mill will be renovated to house the Jordan Valley Innovation Center, which will conduct high technology research for defense contractors. The facilities will spin-off significant high paying technological job growth for the region. The investment will approximate \$38 million when all phases are complete. This comprehensive plan and development could not have been implemented without the authority to acquire all the necessary properties and convey or lease them to third parties for development. The park continues to grow to the west and provides momentum for Center City investment.

In addition to the economic development, there are also in Jordan Valley Park there have been a number of properties that are environmentally contaminated. In order to redevelop these properties the city had to find a way to minimize liability to the new owners and to provide for cleanup of the properties. We have used eminent domain to gain access to those properties for environment assessment, and to acquire them for cleanup and resale or lease for redevelopment.

Currently, College Station is a centerpiece of current downtown development. The city acquired land, in part, through the use of eminent domain in the 1970's to develop a street system that would divert and close vehicular traffic from the square. Closing the square to vehicular traffic did not prove to be effective in improving the business climate and the street system and surrounding land which has become known as the “tuning forks” was abandoned and left to deteriorate for almost 30 years and the land became clearly blighted. In 2003, the city decided to market the land for redevelopment and has since contracted to sell the property for an entertainment and retail complex of 153,000 square feet. The city will build a 450 space parking deck adjacent to the development.

Total private and public investment into this project is more than twenty million. If the city did not have the ability and authority to convey this property to a third private party, this development could not occur.

In all of the cases above, there was no alternative properties available to accommodate these developments. In an urban setting, downtown is where downtown is. This dilemma is certain to exist in these urban settings so the ability to acquire all parcels in a development area is absolutely essential. Conversely, when alternative properties exist, it has been the policy of our city to develop the project at the uncontested site. In 2000, the city sought to expand its Industrial Park known as Partnership Industrial East to an adjacent farm. The farm owners, and I think the Representative Hobbs mentioned earlier about this legacy - this is one of those issues - the farmers objected and after the city had some initial discussions and consideration, the city withdrew the plans and located the industrial expansion on another site.

JARRETT: If you would, Mike, if you could wrap-up.

MACPHERSON: I'm getting very close. It is important to note that even with all the development described in this testimony the city has only been involved in one trial regarding eminent domain issues during the last 30 years. The reason for our success and lack of litigation is because of the following safeguards:

- Our projects are always the result of a comprehensive redevelopment plan that typically finds a determination of blight for the project area.
- The redevelopment plan always includes public hearings.
- The city always offers and pays fair market value for the properties based upon appraisals.
- The city offers assistance with relocation expenses and the city minimizes the number of

properties condemned.

- And, as previously testified, the city always uses alternative properties when it is possible.

It is difficult to imagine the city of Springfield today, and as some of you may know we have been referred to recently over the last couple years as the economic engine of the state without the economic development projects completed and those currently under development. All of these projects involved the use of eminent domain. If the city did not have eminent domain as a resource, these types of developments would not occur in urban areas because potential developers wouldn't be able to plan their projects without assurances of land availability. The city must have the ability to acquire the land and convey the land to a third party when the overall public welfare benefits outweigh the property rights of an individual. The individuals must be protected and safeguarded by a plan that includes comprehensive redevelopment strategy, a fair and adequate compensation plan, due process, and oversight of policy implementation by the elected officials.

We urge the task force to support the right of cities to use eminent domain in a sparing and responsible manner to achieve the economic development and quality of life goals for the entire community.

I thank you all for your time today and I would be more than happy to answer any questions you might have.

JARRETT: Thank you. Any questions? Thank you, Sir, very much. We appreciate your input. Next we have Ron Monnig.

AUDIENCE: What number is this?

JARRETT: We are on number 31.

RON MONNING: Thank you, Mr. Chairman. I would like to thank the committee for

holding these hearings and listening to the various opinions on this important issue.

My name is Ron Monning. I am a member of the Slater City Council and currently serving my fifth term. I have experienced and dealt with the current eminent domain law and seen first hand its impact on our community of 2,018. I would like to take this time to present some information regarding Slater's experience and offer an opinion on how this issue impacts small communities in Missouri.

In 1996, our three block downtown business district was in terrible economic condition. Empty lots, abandoned businesses and deteriorating structures were the norm and few retail stores were available to cater to our citizens. Residents literally had to drive at least thirteen miles to purchase a pair of socks, a pencil and paper or a needle and thread. Recognizing these conditions and the need to provide opportunities for growth, the city began the process of trying to do some economic development that involved four properties. There was one property owner that objected to let us use the current law and proceed with our plans.

After several years, many meetings, public hearings, depositions, and court proceedings the city paid \$167,000 for these properties. In addition, our legal fees cost the city an additional \$50,000. At that time commercial lots in this part of our community were being sold for approximately \$25,000. The net results of our actions, that our downtown district now includes four new businesses, a new city hall, a new veterans memorial park, new newspapers offices, new sidewalks, new street lights, new streets. We now have over 30,000 square feet of new retail and office space available and our total investment in the downtown business district from both public and private sources has exceeded \$5 million. Now that sounds pretty small compared to what Springfield, the figures they were just throwing out, but for a community of our size that is

substantial and I would guess probably more money that has been invested in 20 years in this area of our town.

Other positives that have resulted from these efforts have included expanded tax base through property and sales tax growth. Utility bills are now being paid by these new businesses and employment opportunities have improved with their growth.

More other subtle changes have been detected in other areas that were not anticipated. Membership, attendance and programs of our local Chamber of Commerce have greatly expanded. Meeting attendance has more than doubled and new promotions and programs are being added and expanded.

Public and private partnerships between the city, individuals, groups and organizations have resulted in the beautiful veteran's park and a new youth center. Volunteers and contributions have resulted in the downtown park that pays tributes to our veterans, has murals depicting the historic moments from our city's history along with a beautiful water garden and gazebo. The city invested a little bit of seed money but the rest of these efforts have been made entirely through contributions solicited by groups of volunteers that belonged to the committee that oversaw the development and the care of the park. The youth center is located in a building that was an abandoned old lumber yard. The city paid for renovation of the main building and it is now being run as a youth center by volunteers from area churches and civic groups. Each church or group volunteers to chaperone or be responsible for taking care of the center one month of each year. The center is now self-supporting and very popular with our teens. As a matter of fact, it's about the only recreation opportunity available in our community for our youth. The center is also available for rent and is also the new meeting location for our Chamber of Commerce.

I would like to note that with the eminent domain law, as with all things, I'm sure there have been abuses and we've heard some of them here and they indeed — they should be addressed and looked into. It was our experience that this process is time consuming and very, very expensive. The rules were followed and the decision to pursue eminent domain action was not undertaken lightly. Only after examining all options was the decision made to proceed.

The current law is a good economic tool for small communities. It works when it is undertaken by local officials and is developed by working through and with our citizens and through the court system. In our particular case, the citizens overwhelmingly supported our actions and have willingly volunteered time and resources for the betterment of the entire community.

It is my belief that we do not need new laws and more regulations that will make it even more difficult for economic expansion in small communities. Rural towns face many challenges in the changing marketplace of the twenty-first century. Unfortunately, many of these small communities lack the necessary resources and assets to meet many of these challenges.

According to the last census, municipalities of populations less than 2,500 people make up 73 percent of the towns in the state of Missouri. Eighty percent of all Missourians live in communities less than 5,000. The recent court ruling has not resulted in any changes to the law concerning eminent domain.

I would hope that careful consideration is given before making any changes that result in a negative impact on so many that live in small rural communities. Economic development in rural Missouri is difficult under the best of circumstances. I hope it is not made more difficult by enacting any legislation that would take important tools in the decision making process out of hands of local officials.

Thank you very much.

JARRETT: Thank you, Sir. Any questions?

GROSS: Yes

JARRETT: Yes, Senator Gross.

GROSS: Yeah, Mr., was it, Monnig?

MONNIG: Yes.

GROSS: Sorry. Did the city of Slater use any other tax incentives along with this redevelopment? TIF or anything else.

MONNIG: No, we did not.

GROSS: Tax credits or anything else in there?

MONNIG: No. We were lucky enough to be financially sound enough that we were able to undertake it with the current money we had invested. That most of the buildings that are of the one property owner that objected to us – it was a kind of a personal grudge between him and the mayor and basically he was using the buildings that he had to store junk in and then had abandoned vehicles and this nature and he wouldn't have sold if we'd offered him a million dollars for the property, quite frankly, then this was our only recourse.

GROSS: And what were the four businesses that came into that area?

MONNIG: The local private economic group built a building that was a Places store that has been bought out by Pamida, which is basically a small Wal-Mart, a 20,000 square foot building. The other end of Main Street we've got a private corporation that built a — I'm not sure how many square feet it is but it houses a Dollar General store and half that building is still available for rent and or lease.

GROSS: Okay.

MONNIG: And the other – out of the four of them that we – we have, a metal spinning shop came into town and we also have a stainless steel manufacturing plant. I’m sorry that....

GROSS: That’s alright. But thank you.

MONNIG: Thank you.

GROSS: I didn’t think you had said all four of them but...

MONNIG: Okay, no. I’m sorry. It was two small manufacturing companies.

GROSS: Thank you.

JARRETT: Any other questions? Thank you, Sir.

MONNIG: Thank you.

JARRETT: Next we have Grace West. Good afternoon.

GRACE WEST: Good afternoon to you, too. I think everybody’s getting a little glazed over and I wish I had a good joke to wake everybody up now but I only can offer this. Someone sent me a cartoon email of a picture of a bandit holding up someone in a dark alley and he said to the man that he was robbing, he said, “Just think of this as eminent domain over your billfold.”

My name is Grace West and I think I represent the rural sector here today. I own three tracts of land consisting of little over 300 acres of good farm ground in Carroll County. One tract was given to me by my parents in 1974. The second tract was inherited from my parents who purchased the acreage where my house and outbuildings are located in 1931 during the depression. It was paid for by them with lots of hard work, careful management in less than 20 years. The third tract of land, which was part of my mother’s home place, was purchased by her when she was 94 because, as she said, “They aren’t making anymore”.

This is my heritage. This is the state of Missouri's heritage as well. Missouri has traditionally been an agricultural state. The Constitution of the state of Missouri and the Missouri Revised Statutes recognize the importance of agriculture. Chapter 262 of the Revised Statutes specifically addresses the promotion of agriculture and horticulture and the protection of farmland in Missouri, as does Article IV, Section 35 of the Missouri Constitution. In spite of this, private industry is using local political subdivisions to acquire farmland via eminent domain for the purpose of economic development.

In my own situation, a utility company wants part of my land to build a coal fired power plant to provide electricity to other parts of the state into other states in which their retailers are located. A second tract of my land is at risk because of a necessary railroad spur for the coal trains. All together, a total of at least 2,000 acres will be needed for this plant. That's a lot of corn and soybeans that won't be produced. Sales of seed, fertilizer, chemicals and associated labor that will be removed from our local economy with very little promised in return. The county commission secretly approved this project without regard to the provisions of the law and have thus far prevented the people of the county from redressive grievances afforded them under Article I, Section 9 of the Bill of Rights. Like Sunset Hills, we've been denied the right to petition three times.

With Governor Blunt, Senator Talent and Representative Graves all publicly supporting agriculturally based fuels as the future for Missouri's energy needs, it is untenable that our county government has allied itself with a 19th century industry substituting successful agribusiness with environmentally damaging fossil fuels. I don't believe the writers of the Missouri Constitution ever intended that eminent domain be used for the benefit of private industry and to the detriment of those that represent the backbone of this great state.

I ask that you please consider further protection of farmers and their lands against the use of eminent domain by constitutional amendment, amending existing laws or creating new laws. For example, this task force could consider the program utilized in the state of Connecticut, which isn't all bad. They have a voluntary program protecting farm lands from development by selling the development rights to the state. As long as the land continues to be farmed, it's protected from development, thereby preserving existing farm land elected to enter into the program.

I speak not only for myself, but as a representative of a group of concerned citizens opposed to the use of eminent domain for private use or gain and those who are equally opposed to a project that will significantly reduce productive farmland in Missouri while subjecting the surrounding lands to hazardous materials by this project's operations.

Thank you for allowing me to speak and for your time.

JARRETT: Thank you and thank you for coming here. Any questions? Yes, Leslie.

HOLLOWAY: I'd like to comment both to the task force and also to ask Grace to talk a little bit more about this project. But this is a project that our county farm bureau, Carroll County in particular, is specifically working on in terms of trying to get information out. People – I'm sorry. People in the county, in Carroll County, where this proposed power plant project is, have been trying to get some information about this project. Grace mentioned the county commission having meetings and I can't say that I know in detail about what's been going on there, but this is part of the problem that we find in the rural areas a lot of times is that it's very difficult for people to get much information until the project is pretty far down the road.

We've just learned that there will be some public meetings that actually are being coordinated by the U. S. Department of Agriculture because there is some financing involved for the co-op that

is actually proposing the power plant and now there are some maps that are – have just been released that indicate that there are potential routes for power lines that will actually run through, I think approximately 20 counties total, depending on what route they take, but up to 20 counties over all. So I just want to, kind of, I guess, elaborate a little bit more on what the situation is in this particular case which we are planning to be involved in, in another meeting to discuss.

JARRETT: Thank you.

WEST: I'd like to add one thing. Norborne is the town where I live close to and it calls itself the Soybean Capitol of the World and we have a festival each August for the last twenty- some years to celebrate that fact and Mr. Hobbs, if you're interested in being King Soybean some years, see me after the hearing.

JARRETT: I can think of no better person to be King Soybean than Representative Hobbs.

HOBBS: Actually, you know, we have a large crush plant at Mexico, Missouri and every year in September, we have the Soybean Festival and I will -- you will be glad to know that I have served in that capacity.

WEST: Oh good. Thank you.

JARRETT: Thank you, Ms. West. We appreciate your comments.

Next is Marvin Steer.

AUDIENCE: Not here.

JARRETT: Ronny Margason. We're on number 34. Welcome.

RONNY MARGASON: Thank you. Good day and I want to thank Governor Blunt. My name is Ronny Margason and I live here in Jefferson City and I want to thank Governor Blunt for creating the task force and giving the citizens an opportunity to be heard.

My statement is something maybe a little bit different. Back in the early 90's I served briefly on a condemnation board. And when I say briefly, I mean briefly so I'm certainly no expert on it or anything and I really couldn't find anything pertaining to the duties. I did read the Constitution and, the Missouri Constitution, with the articles on eminent domain, and ever since then I've been greatly concerned with Article I and Section 28 where we are told that judicial determination can supercede any legislative declaration. Maybe I don't understand that well but that always was like a big red flag to me. And I would certainly ask the members of the task force to give this great consideration in any recommendations that you make.

Thank you very much for your time and thank you for serving us.

JARRETT: Well, thank you very much. We appreciate your comments. And we appreciate your brevity. Thank you very much.

Next is Allan Shickman.

ALLAN SHICKMAN: There was a comedian who used to begin her schtick, "Can we talk?" I think we've beginning to come into these dis – an intimate kind of conversation here.

I want to introduce myself. I'm Allan Shickman.

I'm a retired professor living in University City. I want to thank you for the privilege of speaking to this eminent committee on the subject of eminent domain. You have a very complicated and sensitive issue to deal with, as it is apparent from this hearing of the many facets of concern.

One has to figure out what is the definition of public purpose. What does blighted mean? Is blighted an adjective or a verb? You have to decide that I suppose. I think, among other things, you might well consider legislating a moratorium on eminent domain until such time as you've taken the legislative action you've begun. But I just want to talk about one issue which I think, if properly

addressed, would soften or ameliorate some of the injustices and painful aspects of eminent domain, and that one issue is just compensation.

The Fifth Amendment of the U.S. Constitution, the First Amendment of the Missouri Constitution, both state that anyone whose property is taken through eminent domain shall receive just compensation. The phrase is used by both Constitutions and of course it means different things to different people. It means a different thing to the buyer than to the seller, for example, and I think that one of your jobs should be to define and quantify in Missouri law what just compensation means.

In so doing, here are some things I think should be considered. Just compensation for a property includes considerably more than fair value and the two should be distinguished. In addition to the value of the property, the fair value, the person whose property is taken suffers further losses, both tangible and intangible, which also should be compensated. We've heard a great deal today and perhaps it's the briefest summary to name some of the tangible losses; packing expenses, time and effort employed, the search for replacement property. When I moved to St. Louis a few years ago, I spent three months looking for a house. Fortunately, I was able to do so. Not everybody is. People work. There are moving expenses; lost work time, loss of rent when rental property is involved, loss of trade and customers when business property is involved. Mortgage rates change. You may have bought your old house at an old mortgage rate, only to find you have to pay a very high mortgage rate when you look for your new house. Delay of just compensation can result in further tangible loss. There are, in judicial review, cost of appraisers and juries. Moreover and, I think, even greater in many cases are the intangible losses, the trauma of packing and moving. Have you moved lately? I would rather burn at the stake than go through what I went through when I moved. It's an awful,

awful thing to happen and it's particularly hard on aged and infirmed citizens and is a serious health consideration. A person can drop dead, and I understand somebody did in St. Louis, upon hearing that they would have to move because of eminent domain. You can't tell a ninety-three year old woman with arthritis that she's got to start packing up all the belongings she's accumulated in those ninety-three years. So these are the things, there are other things, love of home, traditions, sentimental value.

There are unique features difficult to evaluate; personal artistic additions such as a garden. I spent half my life in my garden. What's it worth? Landscaping, interior decoration, handicap accommodations, neighborhood like Sunset Hills include old friends, children, people that older folks rely on. Maybe your son-in-law lives nearby or your son can help you out. School connections, kids are in school and thus it is clear that determining just compensation involves much more than determining merely fair value.

It should also be noted, I believe has been noted, that replacement costs may be significantly greater than fair value or an appraiser's value of a given property. Then there's the assessed value for tax purposes usually significantly less than any of these and none of these methods of evaluation produce the same result. We have just compensation. We have fair value. We have replacement costs. We have appraiser value. We have assessed value. Of all of these, only one is a definite amount and that is the assessed value and usually a house is worth on the market a good deal more than the assessed value.

So in determining what just compensation is, I don't know exactly what to say but I think, that considering these factors, the property owners — property is taken through eminent domain should, by law which you would help to prepare, receive what? At least twice the assessed value of

the property as compensation when the property is taken for public use. When it is somehow – I don't know how they do this – when it is legally taken ultimately for private use, or what they are pleased to call economic development, the compensation should be at least four times the assessed value. And also, I think other things such as mineral rights and many other special circumstances ought to be subject to some sort of adjudication or binding arbitration.

Now this approach to determining just compensation would have the following advantages. One, it would be based on a previous and firmly established monetary figure, the assessed value. We all have one. Two, it would compensate tangible and intangible losses beyond the property value. Three, it would allow the property owner to share in the benefits of this economic development. If there's that much economic development, why shouldn't the property owner get his piece of it? Four, it would discourage hasty or unnecessary appropriation of private property. It ought to be little bit difficult and expensive to get somebody's property away from them. And I think therefore, something like a price tag should be put on it. Five, it would protect the property owner from the danger of inherent -- of injustice inherent in case by case determinations by providing a floor beneath which compensation could not fall. And I might add, though this isn't the main point, it would discourage property owners who seek to have their property under-assessed and every year when their assessment is raised, go and plead for a lower assessment whereby the municipality could collect more money and not be utterly the loser.

Those are my thoughts and I present them as representing nobody but myself, a citizen who is not threatened, yet, but who is much concerned that people are being treated with real egregious injustice and some of that you've heard today. Thank you.

JARRETT: Thank you, Sir. Any questions before you step away, Sir, any questions? Thank

you very much. Appreciate you coming here and taking the time to share your thoughts with us.

Next is Joan Botwanick.

AUDIENCE: Not here.

JARRETT: How about Steve Blechle?

AUDIENCE: Blechle

JARRETT: Blechle. Sorry about that.

AUDIENCE: No problem.

JARRETT: Steve Blechle.

AUDIENCE: You got it.

STEVE BLECHLE: Good afternoon. My name is Steve Blechle from O'Fallon, MO. I am president of the O'Fallon Old Town Preservation Committee, an organization that successfully defended the property rights of 59 residencies and 100 businesses against the ravages of unjustified eminent domain use back in 2003.

We did not win our fight in the legal court room. We won our fight in the court of public opinion and the opinions of the good people of O'Fallon who supported the people who were facing eminent domain.

There are many people here today to tell their story facing eminent domain abuse and unfortunately, most of these people have either lost a home, a business, their memories, their way of life, their hopes, their dreams, retirement plans, all without just compensation. Governor Blunt appointed this task force in the wake of the recent U.S. Supreme Court ruling in Kelo v. New London. The governor stated, this is a terrible ruling that undermines the balance that ought to exist between private property owners and the need of the public. I want to address what that balance

should be. More specifically, what the founding fathers of this great nation thought this balance should be.

George Washington, our first president said, property rights and freedom are inseparable. You cannot have one without the other. Washington's successor, John Adams, thought, property is surely a right of mankind, as real as liberty and Thomas Jefferson wrote, the right to sell is one of the rights of property. The rights to sell, Jefferson said, not forced to sell by the government so a private developer can ensure his profits or a politician's warrant for increase in tax revenues.

Today through the use of TIF and other economic development statutes, people are forced by the very government that was instituted to protect them. James Madison, the father of our Constitution, agreed with this and said that government is instituted to protect property of every sort. For the next century, our presidents supported the philosophy of the founding fathers. William Taft, our president from 1909 to 1913, was a strong supporter of property rights and said, next to the right of liberty, the right of property is the most important individual right guaranteed by the Constitution and the one which, united with that of personal liberty, has contributed more to the growth of civilization than any other institution established by the human race.

The Fifth Amendment historically restricted eminent domain in two crucial ways. The government could only take private property when it was necessary for a public use and the owner must be paid just compensation. All this changed in 1954 with *Berman v. Parker*. The Supreme Court ruled unanimously that eminent domain could be used for purposes of what was then called urban renewal. It allowed property to be seized from private property owners in inner city slums and sold to new owners for redevelopment. Public purpose, the Court held, encompassed public purpose. When the government's purpose was to revive a poverty stricken neighborhood, property owners

could be forced to sell.

But Berman's narrow exception soon became a open floodgate of eminent domain abuse. Cities and states eager for new development, began proclaiming neighborhoods blighted when they were simply working class. Some went farther, stretching the meaning of public use beyond public purpose into mere public benefit. They condemned and seized private property on the grounds that another owner could use it to make more money, create more jobs or generate more business, all leading to more taxes, the supposed public benefit.

By the 1980's eminent domain abuse had become such a normal course of action by government in the name of public benefit, that Ronald Reagan was compelled to say, private property rights are so diluted that public interest is almost anything a few government planners decide it should be. That's where we stand today. The threat of eminent domain abuse has become part of daily life for business owners and homeowners alike. But there's hope on the horizon, at least for the citizens of Missouri.

This task force has the unprecedented opportunity to end the assault on property rights by recommending the restoration of the Fifth Amendment words "public use" to the straight forward meaning the founding fathers always intended. Remember, your home is your castle. But with the recent Supreme Court ruling in Missouri State Laws, it could become a White Castle.

Earlier, Mr. Carmody, somebody was up here making some statements about the Institute for Justice. I'm a media spokesperson for the Institute in St. Louis area. I delivered testimony for – from Steven Anderson with the Castle Coalition in the Institute for Justice. Just wanted to make note of that so that each and every one of you make sure you get a copy of that. That leads into further of why the Institute feels that Missouri is one of the worst offenders of eminent domain.

Their study says that Missouri's the only state that allows a developer to condemn property. I just wanted to note that with you.

I would like to thank all of on the task force for giving me an opportunity to address you.

JARRETT: Thank you. We will include that material in the record. Any questions? Thank you.

Next we have Dan Burkemper. Good afternoon.

DAN BURKEMPER: Good afternoon. Members of the task force, Mr. Chair, thank you for the opportunity to speak today.

My name is Dan Burkemper. I am a communications director for the Great Rivers Habitat Alliance. We're a conservation organization established to protect Missouri's environmental resources, with a particular focus on the confluence flood plain in St. Charles and Lincoln Counties. Adolphus Busch, our chairman of Great Rivers, wished to speak here today, but could not because of a scheduling conflict. Therefore, I would like to present you with his written comments and, in addition, make some general comments concerning the use of eminent domain in Missouri.

The bulk of Great Rivers experience with eminent domain arises out of our continuing attempts to restrict the unlimited use of tax increment financing or TIF. Pursuant to the TIF statutes, municipalities in this state are empowered to use eminent domain when it is reasonably necessary to achieve the objectives of a redevelopment plan. Also, in order to create a TIF, a municipality often determines that the land in the project area is blighted by which the land is found to be an economic liability. The vague nature of the definition of the word "blight" leads to broad application and parallels the expansive definition of "public use" that the Supreme Court recently recognized in the Kelo Decision. The vagueness of "blight" and "public use" both suggest that whenever

another use of land might bring more tax revenue, then eminent domain is authorized.

This explicit pairing of TIF and eminent domain and the broad definitions that now apply to both TIF and eminent domain, suggest that this task force should consider the interactions between TIF laws and the use of eminent domain as part of its mission. Thankfully, I believe the task force recognized this during its first work meeting.

I would like to illustrate, quickly, how in one case, the broad use of TIF has led to the threat of eminent domain. A TIF plan established within St. Peters, Missouri was based on two blighting factors, inadequate roads and risk of flooding. The land that was declared blighted on the basis of those unsupported and unexplained blighting factors was then found to be an economic liability when, in fact, it was productive farmland. Furthermore, the certification that the area is an economic liability that is required under the TIF statutes to be made by a developer was signed instead by the municipality itself. On the basis of these flawed findings, eminent domain was authorized. In some, because of the nature of the TIF statutes in this state, very little stands between a property owner and a municipality that intends to take his or her property by eminent domain. TIF statutes, to put it another way, provide as little protection against the abuse of eminent domain as the federal Constitution. By recommending a tightening of the state TIF law, this task force will be imposing reasonable restrictions on the use of eminent domain because the issues are so closely related.

As to eminent domain more generally, when not related to tax increment financing, Great Rivers agrees with certain principles recently outlined in the *St. Louis Post-Dispatch*. First, the possibility of greater tax revenue by itself does not justify the use of eminent domain. It is wrong to drive a small number of property owners out of their homes so that the municipality theoretically may receive more tax revenue. Second, successful neighborhoods and productive farmland should

not be destroyed through the indiscriminate use of eminent domain. Third, the law should reflect a respect for the right of people to live peaceably in their homes and should require exceptional circumstances to oust them. Any recommendations presented by this task force should take those fundamental principles into account. Great Rivers would certainly support the task force's decision to recommend a tightening of the TIF laws in an effort to limit the overuse of eminent domain. Great Rivers, furthermore, looks forward to working with the task force on these issues and to submitting ideas for concrete recommendations related to tax increment financing and eminent domain.

Any questions?

JARRETT: Thank you.

BURKEMPER: Thanks.

JARRETT: Thank you very much. We're at number 40 on the list.

Pam Schaefer. Good afternoon.

PAM SCHAEFER: Good afternoon. I wish to thank the task force committee for the opportunity to speak to you today and I will be addressing the issue of utility easements.

My name is Pam Schaefer. My husband and I own a ranch in Osage County. AmerenUE is currently putting up a power line on our property. Because of this, I am here today to support the need for positive eminent domain reform regarding private property rights of rural Missouri landowners.

The easement for the utility line on our property was not taken through eminent domain. It was sold to Associated Electric by prior owners and then Associated sold it to AmerenUE. However, if the owners of the property at the time the easement was purchased could not have been sold, eminent domain could have been used as is evidenced today by the taking of land on this very power

line by AmerenUE. As a land owner affected by utility easements, my testimony is germane to the eminent domain issue your task force is charged to review.

When we purchased our land in 1993, Associated Electric Cooperative held an easement on the property. From the information I reviewed, this easement had been purchased by Associated Electric Cooperative in 1978 from a previous owner. It is my understanding that Associated sold the easement to AmerenUE sometime effective around 2003. That's 25 years that this easement was not used. The new company, Ameren, acquired the easement with all rights to the easement. However, as the current landowner, I had no rights in which to base a renegotiation of the 25 year old easement. A reasonable person can understand that land use, projected land use and land value has changed since 1978. Therefore, renegotiation of an easement agreement would be a reasonable expectation, especially when the company ownership changes.

In our situation, we have lost the use of the land that has been bulldozed. The area where trees have been removed is useless and will be for a period of time. This highlights the need to require there be time for landowners to be able to assess immediate and future damages to their property. As a landowner, we will have to contend with reclamation activities without compensation. As a landowner, we will be paying taxes at the same rate as when the land was useful. We will now be paying taxes on land that is not useful but has become an extra expense not at our choosing. Compensation for the lack of use of land is not addressed by utility companies in easement agreements and it should be in order to protect the private property rights of the land owner.

There are five points that I wish to leave with the task force for your consideration. First, the resale of utility easements should not be allowed. If allowed, the original easement agreement

must end. Second, utility easements should be used in a reasonable amount of time and, if not, the easement agreement should end. In our case, the easement was not used for 25 years. Third, landowners should have time to assess property damages during and after the utility has been installed. Fourth, rural Missouri landowners must have full protection of their private property rights by the utility company and their contractors and their subcontractors. And the final point that I feel needs attention, is that attention needs to be given to the due process for eminent domain. The playing field must be leveled so the large companies with lawyers on staff cannot outlast a Missouri citizen just because of resources.

The need for due process reform really hit home after I attended a commission hearing this past summer and then also, after listening to the presentation made to this task force by the lawyer on August 4. After listening to the August 4 presentation, I was even more distressed at how the legal system does not serve nor protect, the private property rights of the individual Missouri citizen when faced with their land being taken through eminent domain.

I want to thank the task force for their time and I hope each of you recognizes that years... that for years, Missouri landowners have been treated unfairly by the way eminent domain law is written. This task force can make a responsible contribution for the rights of all Missouri property owners by listening to citizens and making positive recommendations to our lawmakers to correct the deficiencies to the law and I wanna thank you for your time.

JARRETT: Thank you. Any questions? Thank you very much. Appreciate you being here.

Next is Geoffrey Douglas. Good afternoon.

GEOFFREY DOUGLAS: Good afternoon. My name is Geoff Douglas. I represent Ameren. I'm the manager of the real estate department. I've been associated with Ameren for 20 years now.

I have some written testimony so I will be very brief and just hit some of the highlights of that testimony.

Over all, our position's — we believe the existing eminent domain laws are fair to both utility, in our case, and property owners. The current law balances the need for the utility to fulfill its obligation to provide reliable and safe electric service to our customers. At the same time, to ensure the property owners are fairly compensated for any rights that they would lose in the process.

As you all know, the House of Representatives formed an interim committee on eminent domain in 2003 and held hearings all around the state. I was present at two of those hearings. I actually testified at one of them and kind of two key items came out of those hearings which I think was probably also the focus of what we all have heard today.

One is that there has to be a clear public use before something, before property should be taken for eminent domain. We have not heard much concern, I think, from utility standpoint that putting an electric line on a piece of property would not constitute a public use. I don't think that's been a lot of controversy.

The second item has to do with abuse of the existing eminent domain laws and there again, not a whole lot of testimony, or any testimony that I'm aware of, as to utilities abusing the eminent domain process. In fact, in Ameren's case, we use eminent domain very sparingly.

We typically acquire about 750 easements each year in our service territory in Missouri and less than one percent of those acquisitions have involved the use of eminent domain. There again it's something we use very sparingly. In fact, am proud of our success rate in projects, especially major transmission projects like the one that was just mentioned — a major 345 KB line through Maries and Osage County. We had to deal with 65 property owners and only had to use the eminent

domain process on three of those. So I'm very proud of our record and how we worked with all those property owners to get that very important line, which is currently under constructed, taken care of.

I think one of the main reasons for this success is we've done a lot of work recently trying to come up with non-legislative measures to improve our route selection process. We're currently in the process right now of acquiring right-of-way for a 19 mile transmission line project that's going to circumvent the city of Jefferson City.

And before we even came up with routes for that, we formed a community advisory team and invited a lot of stakeholders from the area to provide input and help us route that line. We recognize no one wants a transmission line in their backyard. I wouldn't if I owned a piece of property, whether it be in my residential setting or my farm or my business. So what we've tried to do is get the local input and help them help us with that difficult decision of where can we put a major facility that's needed in the area that would have the least overall impact on the entire area. There again, it can have a devastating impact on any one person but we're looking to come up with the route that will have the least overall impact on the community or on a neighborhood.

This team process worked very well. We had representatives from the Farm Bureau, local realtors association, city, county, state agencies, all help us come up with a route that then we then presented to the public to get additional input. After that public informational session, we then made additional revisions to the route before we came up with a final route. And when I say final route, even then, there were still opportunities we were able to revise that route as they affected individual properties. So that's something we continue to do is continue to prove our process when it comes to public participation.

Last -- during the last session, Representative Hobbs had introduced a bill, 858, and -- dealing with some revisions to the eminent domain process. You know, as I mentioned earlier, overall we believe the existing laws are very fair to both the utility and the property owner. However, we recognize there are some improvements that can be made. A couple of things that came up. For the most part, we were supportive of most of the concepts but just have some concerns about some individual — the way things were worded.

One of the issues had to do with the selection of commissioners and the qualifications of commissioners. I think that came out today in quite a bit of the testimony. It's really across the board how someone gets selected to be a commissioner and we think there should be some requirements put on them to where there are some qualifications to that process.

One of the first proposals in Representative Hobbs' bill was that the county appraiser would always be — or the county assessor, I'm sorry, would always be one of the commissioners. I think a later proposal was that a qualified or certified appraiser be part of that process. I think there needs to be some way to make sure that all three people are qualified to appraise real estate and appraise property rights, you know, in that area.

One of the other things we recommend is there be some form of uniform standards or direction given to those commissioners in terms of what the appraisal problem actually is. I'm continually amazed, and you hear stories of people who have dealt with it, is how you could have two certified appraisers come up with such varying amounts when they're supposed to be appraising the same piece of property, the same property right that's being taken.

So I think there needs to be some way where that problem is more defined. The Wallachs had mentioned a couple of issues having to do with not be able to use the income approach when

they are appraising a piece of property. I think that if there is some type of standards that tie that down a little closer, we could get those appraisals quite a bit closer.

You know, from Ameren's standpoint, we're a public utility. It's not our goal to go out and try to steal property from people. I don't get a bonus if I can get it below the appraised amount. We're basing our offers on what an appraiser comes up with. So I think if there is just some way to put more qualifications or more direction, I guess, for the appraisers, that could also help the process.

So those are just a couple of things. I identified some other areas in my written testimony that I think that where there are opportunities to improve the process. Appreciate the opportunity to be involved with the development of any potential legislation and if there's any questions, be happy to answer those.

JARRETT: Thank you. Questions? Yes, Leslie.

HOLLOWAY: Geoff, I'm wondering can you comment on what you see in terms of a trend in the need for routes or for sites for, you know, power plants, not only for yourselves but for the industry overall? Because my understanding is that there is increasing need for both generation capacity and transmission in Missouri and so I'm thinking that's going to result in an acceleration, I guess, of acquisition of easements by power utilities. Can you comment on that?

DOUGLAS: Yeah. My understanding it is exactly the same thing. That Missouri is behind in its transmission system and certainly in generation. I know, well, one witness had testified about a coal fire power plant going in somewhere in the state. Ameren's going to be in a position within the next few years of also not having a plant that soon, but being able to identify generations somewhere in the state of Missouri we're going to need to serve our customers. So I agree with you.

There is going to be, I think, an increase in the need for those type of facilities coming up in the future.

JARRETT: Representative Hobbs.

HOBBS: Thank you, Mr. Chairman.

Geoff, right now if — is the amount — when you have to use condemnation or any of your land acquisition, are you able to use that when you go before the Public Service Commission now in a full blown rate case, the cost of acquiring your easements or your property that you need for transmission line? Are you able to include that as part of your cost of doing business?

DOUGLAS: Yes. Yes. That would just be part of the total cost of that particular facility which we would want to include in our rate base. Correct.

HOBBS: But when you do your rate case, isn't that before you acquire the property?

DOUGLAS: Well, we haven't actually had a rate case in quite a while. We've had, you know, decreases for quite some time. But, but when the next rate case would come up, yeah, the facilities would have already been constructed. Now I know there is thought, a lot of states, what they do if you're talking about one of the drawbacks to putting in any major generation is that unknown about getting into the rate base and a lot of states have proposals where you get that certainty up front that you're going to be able to get whatever included in that rate base before you spend the money on, not only the property, but also the facilities and everything else.

HOBBS: I think that's one of the problems we've had with — because it's a pretty — it's a great leap of faith for any company to go in and we're talking about what, a \$7 billion project for a coal fire plant?

DOUGLAS: Sure.

HOBBS: To not know what you're going to be able to charge for the electricity that you generate there. And we've been working on that issue, I know, in the House and in the Senate and will continue to work with you on that. Thank you.

DOUGLAS: Thank you.

JARRETT: Howard, you had some questions.

WRIGHT: Geoff, I wanted to compliment you on your acquisition processes in reading the 2003 testimony. It seemed like you resolved an enormous number of issues at the negotiation level. I did notice, and I'm not sure it was your easement, but I did notice one of the utility easements contained and it was for, I think, electric, contained a provision for fiber for telephone. Do you normally include that kind of provision in your easements?

DOUGLAS: Yeah. Our standard easement does include provisions for telecommunication facilities also. Now that is something with any of our, what I call, standard easements contain language to protect any possible event that could come up in the future and that's when you sit down with individual property owners to determine what could be eliminated on their particular property. Telecommunications is one example. There's times we don't want to element it because we also use internal telecommunications to communicate between our facilities. For instance, on a transmission line we'll generally put a fiber wire or static wire to be able to communicate between to two substations for switching. So we'll a lot of times use it for internal communications but not necessarily something, say, that allow it (inaudible) a for-profit telecommunications company to attach to our facilities.

WRIGHT: Okay. Thank you.

JARRETT: Thank you very much.

DOUGLAS: Thank you.

JARRETT: Appreciate you being here.

Next we have Terry Sampson.

THOMPSON: Mr. Chairman?

JARRETT: Yes?

THOMPSON: I'm going to have to drop off. Just wanted to let you know.

JARRETT: Alright, Spencer. Thank you, thank you for participating by phone and we look forward to seeing you next time.

THOMPSON: Thank you.

JARRETT: Take care.

TERRY SAMPSON: Good afternoon, Mr. Chairman and members of the task force. My name is Terry Sampson. I'm the Right of Way Director for the Missouri Department of Transportation headquartered here in Jefferson City. With me today is Pete Donovan, Assistant Chief Counsel, program delivery. We appreciate the opportunity to be here with you today. Visit with you a little bit about our land acquisition process and the process of condemnation through the right of eminent domain.

The department has acquired, under the name of the Missouri Highway and Transportation Commission, real estate for the purpose of constructing highways since the early 1920's. From about the early 1950's, we begin paying fair market value for that needed real estate, a practice that continues through today.

We annually acquire in the neighborhood of 1,000 parcels a year. Our percentage rate of negotiation was around 85 percent through fiscal year '03. Through some efforts we've made, we've

brought that up to a successful rate of 87 percent acquired in fiscal year '04 and we were at 91 percent acquired through negotiation rate in the last fiscal year. So that's something we're happy with. The department does make every attempt to acquire right-of-way through negotiations as quick as we can and as easy as it can be for the property owners.

One of the things we do and we think it's very important, we comply with the Federal Uniform Relocation Assistance and Real Property's Acquisition Act of 1970. That's to be followed on any project that has federal dollars but we've elected to follow that as a model on any project we do, whether or not it has state and/or federal dollars involved in it. What that is intended to do, basically, is to ensure that owners of real property are treated fairly and consistently and it's also to ensure that people that are displaced as a result of a project are treated fairly and have the same rights given to them.

Some of the things that are included in the Uniform Act, and I'm not going to talk about all of them, but an appraisal must be completed by -- , and we use state certified appraisers. That appraisal has to be reviewed and that establishes the fair market value that we pay to the property owners. We then make a written letter offer to the property owners based upon that fair market value. In addition to that, we have a summary statement in our letter offer that breaks down the damages between land and damages acquired for that project. We actually have negotiators that go out and meet with the property owners. They sit down with them. They go over the plans in detail. They go over the deed in detail. Explaining exactly where the limits of the easements or the land we're acquiring are and go over the deed to explain that to them as well. We also explain any buildings, structures, or improvements that are required in the type of interest that were acquired in the property, whether it be owner or tenant interest.

The Uniform Act also forbids any type of coercive action and we make great attempts to make sure that doesn't happen. And we also make sure that anyone displaced as a result of a highway project, either an individual, a business, a farm operation, a non-profit organization, anyone actually displaced partially or totally, they're entitled to relocation assistance and some of those benefits have already been previously discussed earlier, such as moving costs, replacement housing payments, rental subsidy payments. Businesses are reimbursed for searches for new businesses, for business card replacement, that sort of thing. It's intended to make the property owner whole on top of what's paid for relocation assistance.

In addition to following the Uniform Act, we've tried to initiate some new procedures in the last few years that we think are even more fair to the property owners. About two years ago, we started handing out copies of the appraisals to the property owner. We think this is a much more open process and makes it more fair to the property owner.

Again, we meet with the property owner and we give them a copy of a brochure explaining our process. It explains all their rights in there, the area of the acquisition and the copy of the proposed deed. We do negotiate in good faith by considering counteroffers from the property owner and if necessary make administrative settlements based on things we may have missed and are points the property owners bring out.

Probably in the late 90s, we initiated a non-binding mediation process that we now offer to every property owner before we go to condemnation. And what that is, is that we will actually advise the landowner of their rights to have independent third party come in and try to work this out. We pay for all those costs and we have an approved list of, basically, it's retired judges or people that have been involved in mediation and that's worked well for us.

We also send out a post-acquisition survey on every property we acquire, either through negotiation or condemnation and we do that on acquisition and relocation, as I said. We conduct an annual quality assurance review of our processes. The last year we've looked at the highest and best use issue and appraisals and if we are indeed looking at the right thing in our appraisals.

And we're currently seeking innovative pilot processes that we're working through the federal highway administration on. Such things as minimum offers, incentive offers, ways to try to speed up and make the acquisition process better for the property owners.

Again, I'd like to just touch base a little bit on our statistics. We're proud of the fact, again, that we've gone from an 85 to an 87 to a 91 percent success rate in acquiring property and we think some of that's predicated upon some of these things I've just talked about and they've helped our process.

In fiscal year '05, we acquired around 800 parcels, which is a little lower than we typically do. Again, 91 percent success rate and of those 9 percent that we do actually have to file condemnation, only one or two of those, one or two percent of that amount typically goes to a jury trial. So it's a very few parcels every year that actually go to jury trial. We settle a lot of those.

Our customer opinion surveys, since 1998, we've been sending those out as I said. In calendar year '04, 84 percent of the landowners who responded, and that's near a 50 percent rate, indicated they were treated fairly and 88 percent felt that MoDOT's Right-of-Way staff were trustworthy. And then the median process, which I alluded to earlier, again and again we do this and offer this on every parcel prior to condemnation and it has been real successful, we're still working on putting those numbers together. But I believe of the near 50 percent, or of the property owners that have accepted mediation, we've settled near 50 percent of those parcels.

Do we still have some things to do? Yes, we do. And we're still looking at those. We want to make it better and more fair all the time and we appreciate the work that this task force is doing. We'd love to be a part of it, if at all possible. Working with things such as qualifications of condemnation commissioners that was just brought up or ideas that could improve the process. But, with that, I thank you for your time and I would be willing to answer any questions you might have.

JARRETT: Thank you. Any questions? Jerry.

CARMODY: Yeah, I just wanted to comment. I have been involved with MoDOT related acquisitions for a long time. I think Pete knows that and there is a discernable difference. I think there is an attitude that is fresh and helpful to those who are affected by these projects. I think it's noticeable and I think the fact that you're taking the tactics that you're taking may be a reason why there isn't as much concern about MoDOT today as there may have been 10 or 15 years ago. So thanks for changing the attitude and helping us get to a fair resolution in most cases.

SAMPSON: Thank you for that comment.

JARRETT: Yes, Lewis.

MILLS: I just have a few questions about your mediation process. When do the landowners get notified of that opportunity? Is that at the very beginning or after the negotiation process starts to break down?

SAMPSON: Both. They're notified of it initially in the beginning through negotiation when the brochure is handed to them. The property negotiator goes through the brochure with the property owners and a section in the brochure talks about our mediation process and their right to that.

MILLS: Any do you have any idea of the percentage of landowners that opt into that process?

SAMPSON: I don't have all those figures but I believe near 50 percent of who we've offered

to have accepted it. No. No. That's not correct. No. I don't know the number that have accepted it. We're still putting figures together on that. We'll be glad to get that to you.

MILLS: Is it a big chunk? A teeny amount?

SAMPSON: A significant amount.

MILLS: Yeah. And how long does that process take? Does that add measurably to the overall time that it takes to get to conclusion?.

PETE DONOVAN: No, again, it's non-binding. Either party can stop at any time. If attorneys are not involved, a representative of MoDOT will go, the property owner will go, the mediator will be there. If attorneys want to be involved, both sides will have an attorney. Starts off, you all sit in one room, collectively. You go over the plans. You go over the offer. Then the mediator ask one side to leave the room. He finds out their issues. Asks what they can tell. What they can divulge. Does it with the other side. Typically, you know within the first day if you're going to reach an agreement or not. It can go on for two or three days.

SAMPSON: Candidly, when we first started this there were some people that were worried that it would take an inordinate amount of time. But that hasn't been our finding at all. We find that it really hasn't been a delay. In fact, it's been a benefit.

And I'll be honest with you, I was not in this position at that time. I was right-of-way manager up in the Hannibal area and I was a skeptic of somewhat. I figured I could administratively settle anything. But, sometimes the third party just makes the difference, quite frankly. And it's proven itself.

MILLS: How have you found the pool of mediators? Is there a large group out there that's qualified and helpful or is it tough to find a good mediator?

SAMPSON: Very easy in the metropolitan areas. More difficult in the rural areas.

DONOVAN: I would suggest that Missouri Bar and the University of Missouri in Columbia has a lot of resources on mediators. There's a lot of retired judges who are available. Typically, it has not been a big deal, especially in urban areas as Terry said.

MILLS: Thank you.

JARRETT: Great. Representative Hobbs.

HOBBS: Thank you, Mr. Chairman.

Terry, would it be possible for you to provide to the committee, copies of those brochures that you give out and the information you give out when you're — it sounds like you're doing some good things here and I'd like to see some of that material. Would that be possible.

SAMPSON: Be more than happy to. We can give you a copy of our brochure and our letter offer and some of the things that we share with the property owners.

HOBBS: I'd like to see that. Thank you very much.

DONOVAN: In addition, as Terry mentioned, also in this package is typically a copy of the actual appraisal. In a hypothetical case there wouldn't be one. But in an actual case that also would be part of the package.

HOBBS: Okay. Thank you, Mr. Chairman.

JARRETT: Well, Gentlemen, thank you very much. Looks like you have a program maybe we can look to for some ideas as we craft, we craft our recommendations, so thank you very much.

DONOVAN: We'd love to work with you any way we could. Thank you.

JARRETT: Thank you. Next is Steven Miller. Welcome.

STEVEN MILLER: Thank you. Thanks for being here. I have something I want to read but

first I want to touch on a few things that I heard today. One of them is from city council members. They tell the property owners not to fix their house if a roof's leaking or if a window's broke or whatever. They actually tell you that. I'm a business owner in Arnold. I'm currently losing business because of this, probably up to \$50,000 already. That's one of the things I would like for you to consider when you're talking. And also I would like for the appraisers to be held accountable. These developers get appraisers that, frankly, what they offered us was one-fourth of what the place is worth. Okay. And what's our recourse to go after these guys? They're supposed to be licensed by the state of Missouri so they ought to be doing the right thing and they're not. That's the three things that I heard that wasn't touched on.

And the other thing is, I would just like to read you something that I wrote after visiting one of our treasured landmarks. Recently, I had the privilege to visit Mt. Rushmore, one of America's most treasured landmarks. My family and I had the privilege of being there in the evening. They have a park ranger give a presentation to the visitors. He tells of each honored president's accomplishments and their wishes for this great nation. In the words of those four great presidents, freedom was brought up many times. So was being a hero and stepping forward as a citizen to make this a great nation. It was also said that freedom was based on land ownership. Owning land was the foundation of freedom. This park ranger's presentation made me proud to be an American but being a businessman and landowner who will lose his business and his land and whose employees will lose their jobs because his land is being pursued by a developer in the city of Arnold who will probably use eminent domain to acquire his land, I couldn't help but look up at those four great presidents carved out on a mountainside and wonder what would they do. I am very sure they would be saddened. I'm also sure they would step forward and right this wrong. Eminent domain is a way

of taking one's land for another's financial gain or in other words, a shopping center. Plainly and simply is wrong and it's Un-American.

As an American land and business owner, I have trouble understanding why state government would stand by and let this happen. It saddens me as one of my freedoms is being taken away. Growing up, my father, my mother, my grandfather, my grandmother, my teachers all taught me to honor this great nation. I am now 53 years old and cannot understand how our city government can feel good about eminent domain for this purpose. I only hope that state government officials feel the same as these four great presidents did. I know from speaking to many residents, your constituents, that they do not like eminent domain for this purpose. One's ownership of land should be held in high regard and be treasured.

Thank you and this great nation for allowing me to tell you how this American feels. Sincerely, thank you.

JARRETT: Thank you very much, Sir. Any questions? Thank you very much. We appreciate your views.

Next we have Homer Tourkakis. I'm sorry did I butcher that?

HOMER TOURKAKIS: Yes, Tourkakis.

JARRETT: Thank you. I stand corrected and I apologize.

TOURKAKIS: All right. Believe it or not, it's happened before. Thank you, Chairman, and auspicious committee people for letting me speak today and thanks for being here.

In 1985, with a 14 percent annual percentage rate loan, excuse me, and without any government assistance, my wife and I started a dentistry practice in Arnold, Missouri. Since then, the two of us, both graduates of University of Missouri - Kansas City, have pioneered our future in

that same location.

The first 20 years of practice were challenging to say the least. We worked hard to establish ourselves in the community, forging trusting relationships with our patients and our neighbors, while at the same time building a home in Arnold and raising two little girls. In time, hard work and dedication fostered a prospering practice. Now, with three full-time health insured employees and an established practice, we have gotten comfortable in Arnold. Our girls have grown up and are both able to attend Missouri colleges. In addition our steady employment record, we have continuously provided care to Medicaid recipients, a rarity in dentistry today.

Despite our previous trials, hard work to over – and our hard work to overcome them, it now appears that our future will be our most challenging. There is an insidious and pervasive wave of change heading toward us. This wave of change is potent and destructive, like the floods that devastated this state in 1993. No ground in Missouri is high enough to avoid the strangling waters of blight, TIF, and eminent domain abuse. The constitutional levy of protection is eroding away in front of the businesses and homes all over Missouri as swiftly as the '93 disaster that overtook so many barriers and destroyed so many properties.

The properties falling under this wave today, in 2005, are not covered by insurance like those in '93. Instead, there is no protection as local governments release an even more powerful destructive force, eminent domain, to developers at a record pace. We, the small businessmen and women and the citizens of this state, struggle to keep from going under, while our own tax dollars keep these developers afloat.

In 1993, many legislators rushed to the aid of the victims of the encroaching flood waters. They stood side by side with the citizens of Missouri, helping to sandbag levies to protect the lives

and futures of the people who live and work in this state.

Again, in 2005, flood waters are encroaching on the citizens of Missouri. As a citizen of this state, I have tried to lobby for help. I am here again today to bring the flood of eminent domain to the attention of the legislators. In 1993, you built levies to stop the flood waters, but what will you do in 2005? Will you stand aside and let the tide of eminent domain destroy the homes and businesses built by your citizens? Or will you instead, help me build a levy against this force, so that when the flood waters recede, we find our futures and families intact, and our businesses and homes safe?

There is a time to discuss how to best balance commercial expansion and local needs. However, this is not the time, as there is none left. Unless a moratorium on eminent domain is issued immediately, there will be no future time for discussion, and for many business and homeowners, there will be no future. We are men and women, husbands, wives, children, running with the bulls – unless we are given assistance from our fleet-footed leaders, we will be trampled under the hooves of the raging developers.

As a loyal citizen and an impassioned voter, I expect fair treatment from my community, and will return fair treatment to it. But when my life, my retirement, my children and my two-decade old business are threatened, I will do whatever I can to save it. Unfortunately, my efforts as an individual can only go so far, which is why I ask for your help to save my property, my family and my future from this potent adversary. Please come see my property, what is at stake in the floods of 2005, and build a levy against eminent domain abuse.

Thank you for your attention. One of the things that is apparently available to pay down TIFs when they are applied to a redevelopment project is to freeze the real estate tax and they redistribute

50 percent of that to paying down their development costs, but there's no refuge like that for the person who gets evicted from their property and then goes out and tries to reconstruct their business and then we are reassessed at a higher level, so I think if it's fair to have them have a freeze on their real estate tax, then anybody who is displaced should get the same treatment. And what I'm concerned about, too, is if I'm displaced from my property that in negotiations there won't be a chance to get a non-compete cause. So if this new developer says, well, I made a mistake and I do want a dentist on this property, there's nothing that prevents that and so my patients may be inclined to think, well, there's the new dentist over there. He's still in that property. But it's not me anymore so — I thank you very much. Appreciate it.

JARRETT: Thank you, Sir.

AUDIENCE: Thank you, Doctor.

JARRETT: Appreciate it.

Next we have Darla Maloney.

DARLA MALONEY: Good afternoon, Chairman.

JARRETT: Good afternoon.

MALONEY: Members of the task force committee. My name is Darla Maloney. I am the Missouri Libertarian State Chair, and I am also a mom on a mission. I'm here today to protect my daughter's rights along with everybody else in the state.

My first experience with eminent domain occurred when I was a child. My family and I lived in a community at Creve Coeur Park. The state wanted to extend the park for public use, which I understand is acceptable. However, when most of us fought it they started condemning our properties. We were forced to take their offers and move. We were forced to move, not for the

building of a road, but for the extension of a park. Because we did not receive just compensation, my parents had to get part-time jobs in the evening after their regular 40 hour work week in order to purchase a comparable home and support their five children. Many families were similarly affected by this. We were a close, tight knit community. We never saw our childhood friends ever again. This was devastating for children to go through. We've heard so many stories about the adults that are affected by this. The children are negatively impacted by this as well. We didn't understand why they were tearing down the houses around us. Our parents didn't understand the real reasoning behind it so they could not explain it to us.

In medieval Europe, only the king could own property. While lands were often granted to nobles or administered by overseers who might be allowed a percentage of the profits actual ownership remained exclusively in the hands of one man alone, the king. When the colonist arrived in the New World, they brought a resentment of that exclusivity with them. When America won her freedom from Great Britain, our founding fathers established a nation where any man could own property and have his rights respected. A right is something that you can do without asking for permission. The opposite of right, therefore, is something you cannot do without asking permission, which is a privilege. What I am asking the Task Force Committee is, are you going to uphold and defend our property rights as stated in the Constitution or are you going to give us property privileges until the time someone else comes along that you feel has a better use for our property? Thank you.

JARRETT: Thank you. Any questions? Thank you very much appreciate you being here. We are up to number 48 on the list, 49 and 50 are crossed off, so number 48 is Gregory Arrigo.

GREGORY ARRIGO: Good afternoon - late afternoon. Thanks for giving me time to speak today. If anyone in here is a fan of British comedies they will recognize these words spoken by the

Black Adder, “I have a cunning plan”. More dangerous words can’t be spoken by your friendly neighborhood developer newly emboldened since the recent Supreme Court decision. While nothing was actually changed by this ruling, it has opened some peoples’ eyes to the terrible ways in which local governments have misused this necessary power of eminent domain that we the people have bestowed upon our government. How anyone, let alone the supposed lead arbitors of justice in this country can think it is proper to take privately held property from one owner and transfer it to another private owner under almost any circumstance just boggles my mind. Oh, excuse me, it’s not take, it’s buy at rock bottom unimproved price. This power is necessary for public use, that’s what the Fifth Amendment says. I don’t think you need a degree in English to understand that public use means something that everybody can use, not perhaps benefit from sometime in the future.

In our current state of affairs in Missouri, property owners are left well less than protected. Blight, the tool of choice in these relationships between developers and tax hungry bureaucrats is whatever the local authority says it is. The local authority that will allow the taking of a private home or business or farm has great reason to buy into the development line. Bigger bucks for them to spend on their own cunning plans. Every piece of property could have an arguably more productive use of something else. This cannot be seen as weight enough to upset the delicate balance of our freedom. Freedom stands on three legs; our lives, our liberty and our property. Government’s primary function is to protect these three. We should not allow men with big ideas and big promises to abuse this granted power of government and knock home owners and business owners down.

The ideal outcome from all of this, in my mind, would be to amend the Constitution. To make it plainer than it already is. I mean, it seems plain enough to me in the Missouri Constitution

public use. But evidently, it's not plain enough. A vote of the people on something as basic as this is certainly at least as proper as the recent one which enshrined discrimination into our state law. At the lessor acceptable end of the spectrum would be a strict definition of blight. What we cannot stand for now is for local politicians' promises to be good from now on, while keeping this weapon of neighborhood destruction in their back pocket. That's it.

JARRETT: Thank you. Any questions? Great, thank you.

How about we take a break for a little bit, a bathroom break and get something to drink. How about we reconvene at 5:15. We have about a dozen to fifteen. We have fifteen more on the list - 15 or 16. Who all is sitting here is still waiting to testify. Okay. So let's reconvene at 5:15.

Over the break I talked to somebody who needs to testify and get out of here. I'd like to call Jeff Craver. Thank you, Jeff, and welcome.

JEFF CRAVER: Thank you. Mr. Chairman, members of the task force, I am Jeff Craver with the Missouri Chamber of Commerce and Industry. I'm the Assistant General Counsel and Director of Fiscal Affairs for the Chamber.

I thank you today for the opportunity to appear before this Task Force. The Chamber of Commerce was established in 1923 as the state chamber. We're are the largest general business association in Missouri representing almost 3,000 employers, employing more that 425,000 employees in the state of Missouri.

As you might expect, our membership is quite diverse. The association membership operates on every sector of the state's economy and represents a vast array of business interests. From the mom and pop shop to the state's largest utilities and multi-billion dollar international corporations. Our members' business interests are as diverse as their concerns when it comes to this topic.

The Missouri Chamber of Commerce commends this task force for the direction it has taken by dividing this vast topic into the four sub-topics of rural, urban, procedural and legislative eminent domain issues.

With regard to eminent domain for the more traditional infrastructure purposes, the chamber is keenly aware of the sensitive balance between the cost of developing and installing infrastructure and the duty to protect and compensate property owners whose property is needed to promote a public infrastructure purpose. Infrastructure development costs, whether for power lines, gas lines, oil pipelines, new roads, safer intersections, water towers or rail lines, are born by all of us. That is, the higher the cost of delivering the utility, the greater the expense for the consumer. Likewise, the higher the cost of public roads, intersections and bridges, the greater the demand on state and local revenues which are derived from taxes and fees.

Infrastructure costs and eminent domain are linked in two primary ways. First, if eminent domain is not made available or is significantly restricted, the costs of infrastructure may elevate significantly. What's more, an inability to use eminent domain where it may be necessary for infrastructure could have broad economic impacts on a region or the entire state depending on the infrastructure type that is needed.

Eminent domain for economic development purposes is also established by the Missouri Constitution but strikes a different cord among all of us, especially in light of the *Kelo v. New London*. Our constitutional founder saw a need to permit eminent domain to reclaim blighted, substandard or unsanitary areas so that they can be redeveloped or reconstructed. However, when compared to the framework for infrastructure eminent domain that is clearly established in Article I of the Missouri Constitution, eminent domain for economic development which is established in

Article VI, Section 21, is clearly less an established system and more a permissive device that is subject to greater legislative interpretation. I would draw your attention to the way Article VI, Section 21 begins that laws may be enacted by the legislature.

The Missouri Chamber of Commerce has a very deliberate agenda development process in which we are engaged contemporaneously. A paramount issue of the chamber in the upcoming session will be eminent domain. Due to the level of scrutiny that must be undertaken by our legislative and policy councils as well as this task force on this subject, it would be premature to declare a steadfast position on this issue at this time. The chamber recognizes the difference among these two types of eminent domain as I have mentioned today and supports the proposition that they need to be treated differently under future legislation.

The chamber supports and recognizes the need for equitable valuation of property that is taken by eminent domain. The chamber also believes that rights of property owners, whether they be families, farms, or small businesses must be protected. As champions of the free market, the chamber naturally opposes government action to determine winners and losers in the marketplace. That said, we also recognize the need for organized, planned development to avoid problems such as ineffective transportation and infrastructure design or to promote economic development in the state. That concludes my prepared remarks and I will take any questions.

JARRETT: Thank you. Any questions? Thank you very much. Appreciate your views. Next is Maxine Johnson.

MAXINE JOHNSON: America is hurting and we are asking you to help us heal our wounds. I address the Chairman and the Committee on Task Force hearing and thank you for giving me the privilege for being in Jefferson City for the third time in my lifetime.

I've been busy having babies so I'm glad to be here. As you know, I came before the first task force meeting talking about how, unfortunately, there was a Lutheran pastor and his congregation of 100 members who formed their own development corporation to take our homes. I grew up Lutheran. I graduated from Lutheran North High School. I attended Valparaiso University and I got a degree from the University of Evansville in Evansville, Indiana. Unfortunately, I haven't had a chance to use that degree. I've been having babies. Anyway, because of eminent domain I have had to leave the home and the babies to save the house. I am here in Jefferson City rightly to do so.

The first thing that I would like to ask you is to issue an executive order to implement, to stop all proceedings of eminent domain at this moment to save our homes like Sunset Hills. Eight of my neighbors have gone to court, have gone through the proceedings and they have been issued final decision, property value from the hearing, from the commissioners. I received my summons two weeks ago. Right now, just like Sunset Hills, we need your help.

I also believe that — I love St. Louis City. I had opportunity to move to the county. My husband works for the gas company for 15 years, digging ditches, repairing leaks. I pleaded and asked him, please let me go to the city because I love people. I love the brick homes in the city of St. Louis. It saddens my heart when I see them tear down those brick buildings. I have no opposition to you building the frame homes on vacant lots but when you tear down nice solid brick homes, they may cost a little more to repair that will last twice as long or maybe longer for these types of homes. We ask ourselves where is our value system?

I am asking you to consider that TIF money that has been given to the developer to consider it to give it to those vacant brick homes. I believe there are people who love brick property just like

I do. In reference to the deputy sheriff, Ms. Geisman, when she showed you this thing on there, she said that this city of St. Louis owned 10,000 pieces of property. I have had the privilege of going to those auctions for back tax properties. They do own 10,000 pieces of property, and how they get that property they do nothing but barely cut the grass. So most of that property, they're the owners of it. They haven't done anything to them. Which put us at risk. I've tried to get that property. They make it difficult. Saying you don't have the finances. I am asking you to consider giving the TIF money to those buildings and encourage people to buy that solid property. Save our brick homes in St. Louis. That is one way that we can be involved.

I've ask this pastor to build around our homes. Where I live there are vacant lots. I was embarrassed to invite people to my neighborhood but I told my husband, you save a neighborhood one house at a time, one brick at a time. So I made a sacrifice to move down to the city. I went to that church. I traveled with that pastor so he is not a stranger. He got the property. Came to my home asked me to buy it. We did not know anything about eminent domain being extended to developers. We thought it was just the highways and bridges. He sat in my home and asked me about my property. We told him no. He did not open his mouth knowing he had access to eminent domain.

Many people that have spoken here today are victims of deception in America. We sent people to Tsunami.....relief, but yet where's the relief for people that are hurting. Lives are being destroyed. My neighbor's the one who had the heart attack and died at 64 years old. A Caucasian woman, two weeks after her physical, and they said there's nothing wrong with her but diabetes and she wasn't obese.

Eminent domain abuse is causing stress. I believe I'm not the only one that would break

down in tears. If someone were to come and rob you of your prized possessions or kill your loved ones you will weep, just as we weep today. I'm asking you that when we leave and go away, and you may not ever see me for a long time, remember our faces, remember our plight. Pass that executive order. Stop them from taking our homes. Make it difficult. Ban eminent domain abuse like Utah, Delaware, Illinois, and several other states that have already placed strict restrictions on eminent domain.

We applied for an injunction, my neighbor did, she was denied an injunction. So we've done everything we thought we could do to save our property. Also they blighted our homes and forced eminent domain without our knowledge. They been having secret meetings just like Sunset Hills. The people that have survived eminent domain Maple Wood, the other gentleman there, because they were there to find out about the meetings beforehand. They was included in the plan. All I'm asking this pastor, is let us play monopoly with you. Let us be a part of the game. I want to stay in this city. If I lose my home, if my neighbors lose their home, I don't know if I would stay in America. Because what can I believe in? If I can't believe in the judicial system, I'll call the President. I'll call Matt Blunt. I came to this great city in Jefferson City and I ask you to help us before it's too late.

Make sure this never happens to other people in America. We deserve to be homeowners. We pay taxes. I've been voting ever since I was able to vote. I sit in the front of the bus ever since they made it possible for me.

And now, the people in north St. Louis are hurting. They're suffering. The blight that you see there and the problem that you see there is really a result of LRA. But yet, they want to make it look like we did that. We can't get loans. People are working hard. They want to stay. All I'm asking is ask Ms. Geisman the next time she say we need development, I agree with her. We do need

development. But include the homeowners. Sit down and talk like the people at AmerenUE. They made changes. When he spoke, all I felt was peace. But when the other people that were mistreated spoke, I felt distress, heartache and despair. This is America. We are supposed to be the land of the free and blessed and I'm asking you to consider the people that are hurting.

Any of you may never be affected by eminent domain, maybe because of your position, and you know at work sometimes we know people, and you say I'm not exempt, but you know when you look at it realistically, sometimes you know somebody, they cover you, you don't get hurt. We're just regular working citizens. We're not trying to hook up and get into politics. We just want to vote. Make sure we have a nice neighborhood and stop crime. For 23 years all I've done is pick up women and children, strangers in my car no matter which way I went. That's my contribution of saving America.

It's pouring down rain one night. There's was three women and about ten children. I was leaving from church. I've got five of my own kids, I had a van, and I pulled off the road and my daughter looked at me and said, mama, what are you doing? I said, you see those three women and those seven children trying to go to store? I'm going to give them a ride. Where are they going to go? Please don't do it mama. I said, baby, if they have to ride on the bumper, they're getting in this car. I just left church, so I try to contribute as a mother. You may never see me in the office, but on the road I'm doing my job to change America. If I can change the hearts of Americans, then they're better citizens. So I'm asking you again, I'm giving you my case here, but when I leave, I'm going to pray, because the Bible says, the king's heart is in God's hands. I'm asking you to think what if that was my child. What if that was my neighbor? What can I do? And I'm asking you to ban the misuse, we're not saying ban eminent domain, but the misuse of it. It is good. We need highways,

bridges and roads. And I believe if a developer wants to build a mall, they should pay hefty. Negotiate just like you do real estate. Sit down, don't go to the state legislature with my tax dollars to take my home. Another step of this deception. I'm shaking like a tree on the leaf. I'm been sick all day....feel like I want to just vomit up. I don't want to be in this position....where my home...if you can't keep your home in America, what else can you keep? There's no point in having a job. There's no point in voting --- because your foundation is gone.

So, again, deliberate, at least give it — I know you can't do an injunction, but pass executive order. Save those peoples' homes. We've got just a few days, a few weeks. I just threw my cell phone in the trash can, by accident, so this trip has already cost me. That's the second cell phone I've lost since I've been fighting eminent domain. I've been knocking on 11,000 doors and if I have to keep on knocking, I'm going to knock because I believe in America.

Thank you.

JARRETT: Thank you. Thank you for being here today.

Next we have Susan Woltering.

SUSAN WOLTERING: Good afternoon. I would like to first thank the task force for taking the time to hear my story and allowing me to express my views. My name is Susan Woltering and I am here to share with you the story of our family owned business that goes by the names of Select Drink and C.R.Frank Popcorn. Although I am here to tell you my story, it is basically the same story for four other family businesses that are my neighbors along Lindbergh Blvd and Hazelwood. We're all being threatened by the same developer with eminent domain. For those of you who are unfamiliar, Hazelwood is a suburb in St. Louis County.

My father purchased the company in 1972 from the family of my best friend. At the time of

the purchase, the business had two employees and two trucks. Today the business employs 20 employees and operates six trucks. We initially rented warehouse space and as the business grew, my father began to look for a place to build. In 1983, we moved into our current location. My father designed the building and as of a few years ago, he owns the building, free and clear. As with any business there are good times and bad times. But with proper management and wise financial decisions the business has grown and expanded. The business has grown to include a showroom, which is open to the public, and three large walk-in freezers that house the truck loads of frozen foods which we sell to our customers. It is not by any means a small operation, and cannot easily be moved to a new location. Our plant needs are very specialized now and our facilities have been adapted to meet these needs as we have grown.

Eighteen months ago we received a letter in the mail from a private developer, McEagle, telling us we had to sell our property to them or they would sue to acquire our property. The offer made to us and the four other owners was so low it was simply unconscionable. In one case, the offer was actually lower than the real estate taxes paid on the property that year. The amount of money offered for the sale of the property was so ridiculously low it's hard to believe that they were serious and yet the thought that they might serious was terrifying. This development firm, to this date, has never made any attempt to talk to any of the business owners involved. They prefer to hide behind the anonymous shield of the mail so they don't have to acknowledge that we are people with families who will be very negatively impacted by their greed.

We hired an attorney and the developer filed to sue each of us. Fortunately we had a wise judge, the first go around, who said in his mind the offers were so low he did not see how the standard of good faith negotiations had been met and so the developer withdrew his suit.

A few months later another letter arrived in the mail from the same developer with slightly higher offers. And again a different judge expressed his doubts as to whether the offers could be construed as good faith negotiations and the lawsuit was withdrawn a second time.

Roughly six months passed and another letter appeared in the mail with another offer and another threat. Unfortunately, this time a judge passed the case along through the system, so we are currently in the middle of a commissioners' hearings. I believe that these low offers were just a tactic used by the developer to inflate our legal bills so we would eventually cave into one of their lowball offers, but we won't.

Why should any small business be crippled in order to benefit a private developer? In a Democratic society, why would our laws allow privately held companies to flourish at the expense of another privately held company. This is exactly what is going on in my situation. In America all men are to be created equal. There is nothing equal when a private developer uses the laws to expand it's coffers at the expense of a family owned business. Our founding fathers did not intend for that and the people of today do not want to see it happen as has been evidenced by all the testimony before you today.

So as you move forward in this process I ask that you keep these things in mind.

1. Private developers should never be allowed to use eminent domain to get what they want. They have abused eminent domain and now is the time to stop it.
2. A person or business who is being displaced by the use of eminent domain deserves to remain whole, not eaten up with legal bills and unexpected expenses. This could be accomplished by the following:
 - A. The condemning party should be responsible for the landowners' legal expenses. Many

people settle with developers because they are afraid of the mounting legal expenses that it takes to fight these developers.

B. Replacement value, not fair market value, should be used in all cases. A displaced person or business should not be forced into accommodations that are of a lesser quality than what they are accustomed to.

C. Displaced individuals and businesses should also be given some sort of compensation, in addition to moving expenses, for the inconvenience of having to relocate. In the case of business the compensation should also cover the interruption or loss of business.

In closing, I ask the task force one thing which you have heard repeatedly over and over today, please find some way to stop the current eminent domain cases that are in our court system until you have time to meet what you have been charged with and new laws enacted.

Thank You

JARRETT: Thank you any questions? Thank you very much.

Next we have John Kinsello

Good evening and thanks for being here.

JOHN KINSELLO: Good evening.

My name is John Kinsello. That was my sister that just testified. We both belong in the same family business. I don't have anything written. I am just going to kind of talk off the top of my head.

Two years ago, roughly two years ago, I sat in the chamber similar like this in the city of Hazelwood. Asking the city of Hazelwood to not blight our property. We got word of it that they were going to blight it and they were going to develop it into a light industrial park.

Our business is considered light industrial and we said, do not blight our area. We don't need it. It is light industrial. We are right on the border of it. Everything behind us needs to be redeveloped. It really does. It needs to be redeveloped. But we are right on the border. We're fine. Just include us in. Well, they all shook their heads yes and I am like, okay, great. I think we probably won this. Well, a week later after that we found out well they went ahead and they did blight our area and they did include us in it. How they blighted the area and decided what they were going to blight and what they weren't going to blight I have no idea how they included that. We used to be located a quarter of a mile on the other side of this proposed development in a building that was roughly almost twice as old as ours. That was on the border, on the other side, and we found out that was not included in the blighting. But we were. The only thing that I could actually really come up and understand why we were on the blighting is because we were the front row of the development. We had the front row seats, basically, because we had Lindbergh access and that is what they wanted. That was the most valuable property.

Now since the land is blighted, everybody thinks that when you blight land it is not worth nothing. Well, our land, our building was built the same year as the city of Hazelwood, their city hall. Sound building just like theirs. Yet they are going to tear our building down and still keep their building. It just doesn't make any sense.

As far as the offers, my opinion and developers, when they do make an offer, they should be accountable for that offer. Just to give you an example. I have to give you an example because everybody else knows it. This is a picture of our building right here. Our first offer on this building, Lindbergh frontage, was \$24,000. Is what they decided they were going to offer us. How you can let somebody do that and not be accountable for that kind of Absolutely --- If you think about

it corporate America and WorldCom when the officers embezzled so much money, they were held accountable for that. Yet, when we are here and people are trying to steal us blind, they are don't hold them accountable for anything like that.

That is pretty much it short and sweet and I know it is getting late. So, that's it.

JARRETT: Representative Hobbs

HOBBS: Thank you, Mr. Chairman. How much interaction have you had with your city council since this process started?

KINSELLO: When we got the first offer of \$24,000, we went to them and we said, hey look at this. Look at what this monster that you have created is doing to us. They offered us \$24,000 for this property. You know what they said? I don't know really what they said because they didn't say anything. They said talk to our lawyer or it will be taken care of. We did have one representative come down to see all of us. And he came down and he was very apologetic. He instructed us that my lawyer, the attorney lawyer instructed me not to come but I came anyway to hear your views. We told them our views of how we were being treated. Never really heard anything nothing after that.

HOBBS: Have any of those individuals had to stand for reelection since this has taken place?

KINSELLO: I am not sure.

HOBBS: If you are zoned light industrial than you probably don't have a lot of people that live in that area. Am I correct?

KINSELLO: Correct. We have no say so as far as voting.

HOBBS: That is one thing I think we have gone seriously astray in Missouri. We have become so enamored in the hunt for jobs and economic development, that we look at bringing new

businesses into the state because that is glamorous and that is something people can see. But we have really neglected what really is the foundation Missouri is built on and that is the small business person. When we try and make it easier for someone who employs 20 people to expand and employ 25 and offer health care benefits and retirement, that's the true basis that Missouri has been built on. I think right here you are seeing a very good example instead of trying to work with a small business person in a community and give them a hand up, it is much easier to turn it over to a large company and say well you will bring in more jobs. We have gone seriously astray in this state.

Thank you for coming here and I apologize for the mess you are in.

KINSELLO: Thank You.

JARRETT: Howard.

WRIGHT: I may have missed it, but what is the square footage of your building?

KINSELLO: The usable square footage is about 23,000.

WRIGHT: Thank You.

JARRETT: Your sister had mentioned the first offer \$24,000. The court said that is not in good faith, go back and then you got another offer. Do you remember what the second --- the value of the second offer?

KINSELLO: The second offer I believe was \$75,000.

JARRETT: Any other questions? Thank you very much. We appreciate your input and your views and please leave the picture. We will put that in the record.

Next we have Jim Roos.

JIM ROOS: I will be referring to the pictures in there that is why he is having it passed out

right away.

My name is Jim Roos. I am 61 years old and a 1970 graduate of Concordia Lutheran Seminary in St. Louis. Since 1970, my wife and I have lived and worked near Grand Avenue on Interstate 44 in the city of St. Louis. I run Neighborhood Enterprises, abbreviated NE, which is both a property management business and a housing ministry to lower income families.

NE is in partnership with Sanctuary In The Ordinary or SITO, a not for profit corporation. NE manages SITO's buildings and helps SITO get loans grants and volunteers. I might add at that point in 1987 this is pretty faded but I ran for alderman and one of the platforms — one of the points of my platform, was that I would work to stop eminent domain abuse.

From 2000 to 2004, 60 of our apartment homes and 24 buildings were taken by eminent domain. On our land, developers are building new homes that cost \$130,000 to \$250,000. We are victims of what I call serial eminent domain abuse. I could say much about how hard we fought the condemnation, how angry and depressed we became and how powerless we were to stop it. I could tell you why the taking of our properties was not a public use. And not even a public benefit in the broadest sense. I could tell you why calling an area blighted is misleading or outright bogus. But I will not. Others have spoken eloquently to these points. Instead, I will use, and I've got there three, but maybe I'll just use one, example of property taken, taken from us, to demonstrate how ruthless government and developers can be in taking property and why fair compensation often is fiction. I find it ironic and poetic that Barbara Geisman led off our testimony this morning.

Barbara Geisman is the Director of Development, I believe, for the city of St. Louis. If you would open your packet to the pictures for 3006 Eads, I think that's the first set of pictures in your packet, and you'll have pictures that are back to back. You'll have pictures of the new...of Eads

Avenue. Of the way it is today, with actually not quite, on one side you'll have pictures of new homes around a building that is 100 years old that we had as a three family building, an older two story brick building. You have four pictures like that. And then on page opposite, you have the same building in 1977 and 1979, when it's surrounded by weeds and open lots, it's barren.

Our company managed that building for 20 or 25 years. One of our management clients, a ministry partner of ours, bought that, excuse me, for \$45,000 in 1987. You need to pay close attention to the dates here because it's going to be relevant on the, what I mean by abuse and unjust compensation. They bought that building in 1987 for \$45,000. In 1988, the St. Louis development, or St. Louis City, passed an eminent domain development plan for this area. This is two blocks from my home. It's in what's called the "gate district", in the city of St. Louis, that's north of interstate 44, between Jefferson and Grand. Nothing happened in this neighborhood for 13 years, other than, you know, it remained like it was. We managed the buildings that we had. But by 2000 or maybe 1999, our neighborhood, or the housing market and our neighborhood became attractive. It was possible to build the kind of single family homes that you see in the pictures. They cost basically \$200,000 to \$250,000. Then we were notified, let me see the date here, in July 2001 the city condemned the building, the Eads building, 3006 Eads, fully occupied, very fine building. And after Petty's rejected their offer of \$29,000, remember now they bought the building in 1987 for \$45,000...the city offered \$29,000 in 2001.

In 2002, the commissioners, condemnation commissioners, ruled the city had to pay \$65,000. In September, excuse me, in January, 2002, they ruled that. In February 2003, they took it. So there were 13 months that this property sat in limbo. There was no obligation by the developer to take it. During that time, the developer's agent sent a letter, and you have it in your packet, that said the

tenants had 90 days to get out, to get out of our building. Ninety days, they said, you have to get out of a building that they didn't own. They took the building. They actually deposited the money in February 2002. One of the tenants, during that year, that 13 months, one of the tenants was assisted to move out of the building by the city.

We re-rented the unit, you know, we asked our attorney, can they do this? Can't we sue them to stop this? And he said, I don't know what you can do. He thought we couldn't do anything. So we re-rented the unit, and they protested. They protested our renting our unit. I'm talking about extreme examples of relentless, ruthless behavior by developers. And it's not just this side of Grand. We had one developer on this side of Grand, another developer that took 23 buildings west of Grand, west of Grand Avenue. This is the worst case of it, however. You know, telling our tenant to move before you even buy the building. Telling our tenant to move, not just helping them move. Sending them a letter telling them they have 90 days to move. In the area west of Grand, where 23 buildings were taken from us, frequently, frequently the developer would defend themselves by saying the Federal — the Uniform Relocation Act demands that we help people move. They would use that as a defense, of moving people out of our buildings before they took them. That's like saying, I can harvest your crop before I buy your farm. I'm from a rural — I'm from a farm in Minnesota. I think that Missouri would understand that. I don't — I can take your crop before I take your farm. It's relentless, it's ruthless, it's unfair. The offering price was unfair. The way they pursued it was unfair. The examples that I have in your packet about 3910 Folsum, 3932 to 36, I mean to 3928, 3238, 6 McCree, they're the same. The same sort of tactics. It doesn't matter how it affects you. We're going to do this thing. One time a developer said, well, when we get through buying the rest of the property, we'll see if we can pay you more. As if that's some criteria for how much our

properties are worth.

Now what I've done here, after I saw it, I was, oh you have in the packet a letter that I wrote to the board of directors of our non-profit corporation, SEO, Sanctuary in the Ordinary. In which I say, foolishly say, I say now, in 2000, the year 2000, we don't need to worry about this. You know, we're a big operation. We're a not for profit corporation. We're a good citizen. we shouldn't be afraid of this. Let's not cave into this eminent domain threat. I was wrong. As big as were in that neighborhood, we could not stop them.

And so I say to you, if a confident person, a strong citizen, a good business, a large fish in this small pond can just be trampled, just be bulldozed over, then everyone is at risk in this state. It's incumbent on us, not just you, on us to create legislation that will prevent that from happening again.

The literature, besides the packet, and I'll skip the rest of the details, I tried to put into the packet, the details that would enable you, if you looked at it as an appraiser, to see that they grossly under, they offered us ridiculous amounts. I didn't realize you could have just said, it's so ridiculous, throw it out. You know, I just didn't know that. I had to learn this as we go along. I'm sorry, okay, there's that in there. I also passed out a flyer that's from our non-profit corporation, that's just a separate page. And then the yellow flyer, which is actually from me, it's tell about, in more detail, my personal experience or our personal experience, losing these 23 buildings in McCree Town, for which we've had one trial so far, and the possibility of 22 more trials. The burden of 22 more trials and the opportunity for 22 more trials. So that's the, yeah, that's enough. I think if you have questions, I'll answer it, but that's, I'm glad I ended up my time.

JARRETT: I appreciate that, thank you. Any questions?

Thank you so much, I appreciate you being here.

Next, is Doug McDaniel. Thanks for being here.

DOUG MCDANIEL: Thank you. Good evening. My name is Doug McDaniel. I'm a farmer. Live on my family farm in Osage County. It's been in my family since 1791. I'm going to give you a brief history about this AmerenUE power line.

On 1/18/02, Ameren filed for an application of a 54 mile, 345,000 kilo volt line through central Missouri. Under the Public Service Commission rules, ladies and gentlemen, if you object to this line, you have two weeks to file an objection. The only problem is, we didn't find out about the line until 4/22/02. The only people that knew about the line were the Public Service Commission, AmerenUE and our rural electric cooperatives.

The general manager from my rural electric cooperative, and I have a copy of it that I'm going to submit, pulled myself and two other people in our group, this affects 170 farms, by the way, and I'm the chairman of that group, pulled us into the office and told us our fight was not with the rural electric cooperatives, it was with AmerenUE, that the rural electric cooperatives knew nothing about this line. But yet, I have a letter here that he signed three days after they filed for the line where he passed all the easements over to AmerenUE.

And, I think what you've heard a lot here today, ladies and gentlemen, is for lack of a better term, a lot of back room deals. And that's how the farmers are, the 170 of us felt when our rural electric cooperatives, that all of us supported, but none of us trust anymore, befriended us by giving away an easement to AmerenUE, which along this 54 mile line, not one single person that lives along that line, will receive any power from that line.

In our hearing, before the Public Service Commission, Mr. James Cutter, who's a director

of engineering, even testified, if this line were being built for Missourians or for native Missouri power, it would not be needed. And that's why we protested this line. A lot of the folks, you heard Mr. Douglas say that only three people had to be taken by eminent domain, and I'm one of those three. The other folks, a lot of the other folks, we're talking about family farmers who are not accustomed to, or don't trust attorneys. And don't want to go through that legal process. I can't tell you almost every night while this was going on, I had phone calls, because Ameren's folks were contacting them, pushing them to sign. They didn't know what to do. I'm not an attorney. I'm going through it for the first time, as well. So I couldn't really help them. So, when he said that only three had to be taken that's a bit of a misnomer, because I can promise you, none of the 170 farmers wanted this export line.

But, let's get to...and you can ask me questions about that because I could go on for three hours, and talk about that, but let's get to the actual easement. And I brought mine in, and a copy which I'm going to leave for you and the negotiation process and I'll be brief. The problem that I have is that the Public Service Commission granted them their certificate, and that's a whole other story. We actually had six commissioners, as you know, and three of them recuse themselves, so we were down to three, and two of them had said they were going to vote against the line, and one was for, and then that was two weeks prior to the final decision. When we all showed up for the final decision, happy, one director changed his mind and he's no longer in politics.

But, let me talk about the current easement that they have with me. They are going to relocate from time to time, in or upon, and this is just in the middle of it, but the problem I have with it, is over, along, through, across, and under said easements. For the purpose of transmitting electric energy or other power. And they're going to attach it to my other lands. This is the one that they

have filed. This is the one their taking and I have a problem with it because the only thing I don't have on my property is a pipeline. But, obviously that will be rendered soon. I have given, just so you know, since 1791, we have given easements to the rural electric cooperatives, too, and they have rewarded us by making both of those blanket easements, so they now have a blanket easement, and just so you know, everyone in Osage and Maries County has a blanket easement and that's what most of these easements are. And that means that they can go anywhere and do anything on our property. There's not a damn thing that we can do to stop them.

Alright, but the problem that I have with this is the buried power part — and I had, they pressured me to settle and I promised them I would settle as soon as I got it appraised. The appraisal took a bit longer than it should have, I'll admit that. But my appraisal, I hired an appraiser. He's licensed in Missouri, Illinois and Arkansas. He came back with an appraisal of \$48,600. Hired a second appraiser in Osage County. Local man, the first one was from St. Louis, his appraisal came in at \$48,000. AmerenUE's offer to me is \$5,600. Quite a big difference. When I informed Ameren that I had received my appraisal, two days later I got a notification that they were taking my property through condemnation.

So that's where I am today. I'm going through the condemnation. What most people don't understand about these — this is a 345,000 kilo volt export line which no one in Missouri will get, I believe the number was less than 7 percent of the power from this line. We have again, my family has given easements to MoDOT. They have divided my land like a piece of pie. I had to build corrals everywhere now because people don't drive 25 miles an hour down the roads so we have to haul our cattle. I've given easements to the telephone company so that all my neighbors couldn't have a party line anymore. MoDOT has given easements since to fiber optic cables. I have, can't

tell you, for years after they ran that, I had to cut down all the dead trees that they killed and fix all the entrances into my fields. So I feel that as a family farmer, we've done more than our part to give easements so that Missouri could continue.

We've made it through statehood. We've made it through the Civil War, the depression, the recession, droughts, floods, bad prices, but this one is going to force us out. This comes, and I had a video to show you, but I don't have a fancy computer so, this easement comes within six feet of my metal calving barn. I don't, I'm sure most of you don't understand stray electricity, but in the video, in St. Louis, they were having to ground downspouts of gutters, children's bicycles, their outdoor furniture equipment because of the stray voltage and they weren't even next to the easement they were located off the easement. That is my short version. I have it all here. I really appreciate your time and I would like to say that I fully support Representative Hobbs' Bill 858 from last year. It actually, for the first time, made some sense to a lot of land owners. Thank You.

JARRETT: Thank you, sir. Any questions?

Thank you very much. We appreciate you sharing your views with us.

Next we have Eugene Fowler. Good Evening, Sir. Welcome.

EUGENE FOWLER: Good Evening. I am going to do like the other gentleman. I am first going to commend the task force for it's appear to be outstanding tolerance of people and their difference of opinions. And I would like to say to this task force that your chairman and his assistant, Mrs. Fisher, has been very helpful in solving some of my problems that I have had in relationship to some of the issues that have come up.

But I am going to submit to you all today a request for an investigation. And I call for this request for an investigation because in attorneys today and I wish you would bare with me like I have

bared with all these attorneys that I have heard talk nothing. And that is that we have heard nothing today about the process. We have heard nothing today about the possible political influence prevalent. We have heard nothing today about conflict of interest. This case I am presenting to you all today for investigation which I believe that there needs to be an investigation of all cases dealing with eminent domain, TIFs and all of this.

Because if you look at Sunset Hills and I am 100 percent in support of those people, what has happened to them is more than a travesty. It is blatant disrespect. And I say it for this reason. I live in a community that the city of St. Louis and I heard Ms. Geisman today who I have some respect for, give the appearance that certain areas of St. Louis just happen to be what they are. She refused to tell you that back in 1971 it concluded itself in '75. I see one of the developers from St. Louis here that knows this well. The city of St. Louis introduced through one of its former Congressman Gephardt, and some of his people, a plan called the Team Four Plan. Team Four Plan is a continuation of what I have heard some use as the urban renewal and what that plan calls for was the improvements of areas of St. Louis that was moving up. The improvements of areas in St. Louis that had some hope of moving up and the killing of areas of St. Louis that was down to die. Unfortunately for us who live in North St. Louis it was North St. Louis. I say that because due it's to the Team Four Plan that North St. Louis has been very well qualified for blighting. They are very well qualified for eminent domain and all you got to do is as an elected official, I understand, is say it and it is so. And this case will prove that. This case is known to us in St. Louis as the Baptist Building. The Baptist Building is being taken as a result of a developer along with some political influence people who wants the property to conclude a development that they have already done that is failing as we speak today. No question about it. I got involved in this because I found out that a

representative from Coleman's Properties came to the office of this group and informed them of what was going on. They had no knowledge of it and to show you what you need to investigate, when I say the process and the political influence peddling, along with the conflict of interest, is that this blighting deal was done in less than two months. It only took three people to be at the hearing to participate in this. It was a representative from the city of St. Louis, an alder person, April Ford, and an attorney representing Coleman's Property. The people who owned the property new nothing about it. As we speak today, I have also in this packet, a copy from the city of St. Louis where that building had been blighted. We appealed that blight by the city. We got a confirment from the city that the blight... the condemnation.... the blighting had been taken from that building because the repairs of that building have been made. The city of St. Louis has now sent a condemnation lawsuit thing that is due to be heard on the 14 and I would like to also add my name to the request that there needs to be, and we were here earlier a couple of weeks ago asking for a moratorium, we understand clearly now that the Governor can not warrant that.

But we do know that the Governor can warrant several things. An executive order that would temporarily take the pressure off of those who are presently going through court appealing the eminent domain condemnation thing that they have or either take the pressure off of those who are futurely to be in court.

The other issue that I would like to speak to is that you all need to consider the request from the Governor to extend your task force. And I called, and I as of today, we are calling on the Attorney General's Office, and that is who I think you all should have a member of that staff, we are calling for a member of the ethics committee to be a part of that task force, and we are calling for you all to consider — in St. Louis we have what is known as the Mile City Bar Association who is

for us, our black legal arm, and unfortunately since for whatever reason and I have talked to the chairman and I am somewhat convinced that he is right. Because in St. Louis the majority of the eminent domain bills that run through are in North St. Louis, orchestrated by North St. Louis all the people and officially I like for this task force to consider investigating the process and the procedures of the following wards: The Third, the Fourth, the Fifth, the Sixth, the Seventeenth, the Eighteenth the Nineteenth. And in each one of those wards, you would overwhelmingly find where eminent domain has been used 99 percent of the people who have been affected knew nothing about it until it came to their doorstep.

I believe that when you make change I think you should consider making a change that would consider putting the earnest on the developer and the elected official. If the developer wants to come into my community, I believe that the developer should make his or her recommendation to me. Request to me as the owner and let me and them work it out. If the elected official choose to come up with an eminent domain or a plan, they should come to the stakeholders of that community and we have heard none of this today. And none of this that we have heard that the elected officials or the bodies that make sure that these things happen, have given the opportunity to the present property owners the opportunity to participate. We are calling in on Alderman Bosley in the Third Ward. You got 14 people and all they are asking them to do since he is using their money to give to a developer, come up with a plan that would allow them as present stakeholders to stay in that community.

And so, again, I ask that you look at these cases from an investigative point. Because in the city of St. Louis in this case would show, that the city of St. Louis had taken this case on the behalf of the developers and have said to the property owners that not only are we taking you to court to

take your property to give to them, we are hiring their attorneys to represent the city to fight against you. Now that has got to be constitutionally out of order. Because as far as we look at it, if I was to go to court knowing that the deck is already stacked, not only am I throwing money away, I am making a fool out of myself because of the simple fact that I am going to court against the city of St. Louis who has already jumped in the bed with the developers and have hired the developers' lawyers to represent them. So I am saying this is past just something that is being done. This is critical enough, to if the governor really wants to diligence to everybody — Number 1, December 31 is not long enough because of the simple fact that the issues are too critical and how we arrived at where we are at today is too critical because we do know this and we have reason to believe that the only reason that the developers — because we have been told it. That the reason that the developers are able to do what it is that they want to do is because they deep pockets. And when you say deep pockets to me someone who is a strategist, someone who has enough sense to understand, the difference in between a man with \$10.00 and a man with 2 cents. So that means like Eagleton used to say, whoever pays or gives the most money in his campaign chest is who calls the shots. So I am saying, this is not only a political issue, this is a moral issue. None like nothing that this state has faced I haven't seen since this so-called right to work bill.

So I am saying you all have got a great task on your hands. We, as the eminent domain stop fight group, we are going and committed across this state to make sure that whoever it is, and the unfortunate thing and it might be good, that it does not call race or color, it is across the line, they are doing it to everybody. And if they can do it to those who have it, those who don't have, will catch hell from now on. So it is on you all to right a great wrong. That even if it was done for whatever reason it was done for originally, it has last too long to be abused and it is wiping people

out. Thank you very much.

JARRETT: Thank you Reverend Fowler. Any questions?

CARMODY: Just had one question. I wanted to follow up on Representative Hobbs' comment earlier on the Hazelwood when you're talking about the councilmen — if you could illuminate a little bit, you mentioned several wards. Do you seem some of the problems that you're experiencing from the aldermanic side or from the mayoral economic development side? You know what I mean?

FOWLER: I'm saying it's coming from both. Because what happens is, all that the alder person — and if you look at any of these bills, if you look at all these blighting bills, the only sponsor of the bill is the particular alder person whose is being done. Now the unfortunate thing for us in St. Louis, we don't have a mayor that has blatant respect for everybody. Okay? Which means that, if the mayor was to see a bill such as that come across his desk that has holes in it — because here's a man talking about it took them 30 years to take his property. Here's some property that they were able to put a bill together and take in a month. And go through all the processes and then tell the people, well, the reason why we were able to do that is because we sent you a certified letter and it came back and the law says that all we got to do is send you one letter and whether you get it or not, we are within our rights to continue. And I'm saying that's a blatant constitution of violation of one's right to exist (inaudible) property.

JARRETT: Thank you, Sir. Next is Greg Tumlin.

GREG TUMLIN: Going to be kind of hard to follow that one up.

JARRETT: Boy it sure is.

TUMLIN: I'm going to give it a try.

My name is Greg Tumlin. I'm co-chair of Citizens Coalition to Fight Eminent Domain Abuse.

I want to say to you all I'm glad that this task force has been formed. I'm glad that you all have taken the task and said I want to do this. I say that because I believe that you, every last one of you all, are the last hope that the people across this state have in regards to eminent domain.

The burden of saving people — we've heard countless stories today about the floods and people dying — I want to talk about a couple of things.

Three things: One is, I, too, like Jim Roos thought it was just ironic that the deputy mayor was first today. Then the first to leave. When she highlighted the dots in terms of the parcels that the city of St. Louis owned, if you noticed, they were all in the northern part of the map, that was north St. Louis. None of it was in the south St. Louis. Those properties can be rehabbed. A lot of them can. There are a lot of vacant properties that people want to buy land.

I live in the fourth ward. And one of the areas that she talked about was Dick Gregory Lane and she showed one house and how it was rehabbed. What she didn't say was that, that's a two block street. Historic in name. One of the most famous people that ever lived in St. Louis. Fifteen of those homes on Dick Gregory Lane are vacant and owned by the city that are in disrepair; have been neglected. Why hasn't the city, the biggest slum lords in the St. Louis City, is the city of St. Louis. The only reason why they haven't wiped those homes out and built \$200,000 homes is because there are a couple of churches that are on that street as well and they haven't been able to get them to move out.

So when we talk about the city of St. Louis and the impact that it's having — I have to go to where I live at. Most of you have heard of Homer G. Phillips. You've heard of about now it's

been restored and now it's senior living apartments. Where did those seniors come from. Well they were forced to sell their homes in order to move in there. How were they forced? Code violations. She spoke about code violations and all they could do was just pay \$500 and they just go about their business. No. They don't just go about their business. They get frustrated with continued code violations. You got elderly people who are on fixed incomes who cannot afford the code violations. They get frustrated with the city. City piling violation after violation on them and they go to court and what they done is say, well, we'll relieve you and we'll help you get into Homer G. Phillips Senior Living. They forced them to give up their property. Now the city owns it and does nothing with it.

Now on the surface that may seem, like, okay that's a good deal. But what has happened is, is that, and Reverend Fowler talked about it, about the (inaudible), and my last point is going to be about that (inaudible- tape error) to the Homer G. Phillips Senior Living Apartment on a fixed income were promised that their rent would stay the same, their rent is now rising and they are being forced out of there. Why? Because five years they had federal assistance, they were only required for five years to provide rental housing. Now they are preparing to sell them as loss.

I think that what we're seeing, and Reverend Eugene mentioned it, in terms of political (inaudible) and immoral, I think it's even deeper than that. I think it's criminal. I think it is absolutely criminal what they are doing to force people out of their homes. Taking people's property and then blaming it on the people, the same thing, blaming the victim. I'm going to rob you and then I'm going to say that the reason why your neighborhood is the way it is, is because of you. I'm not going to do any repairs to any of the community recreation centers. I'm not going to do any repairs to the streets, the neighborhoods, the streets. We're going to just let it go down. That's criminal.

I believe it's upon this task force to somehow say to Governor Blunt, Jay Nixon, there needs to be an investigation of the politicians, all the elected officials in St. Louis who have submitted and sponsored bills for blighting.

That same area. It was a bill that was submitted June 21. Now there was an election in the fourth ward on June 7. The alderman was just elected on June 7 after a recall. The previous one was recalled because of the eminent domain. She was recalled after two years. So there was another alderman elected, O. L. Shelton, on June 7, 2005, to serve out the two year term. On June 21, a bill was passed by the Board of Aldermen for a blighted area of the Annie Malone area, which is the same area as the Homer G. Phillips. The redevelopment plan was submitted two weeks after he was elected. Two weeks after he was elected. The whole plan. I wish I had copies of it. I would give it to you. But that's the kind of behind the door scenes that's going on and things that's going on with our elected officials.

Again, I want to thank you for your time. The reason why I'm here is to simply that I want to be a voice for the voices. There are a whole lot of people, especially in north St. Louis who can't make it here. Who won't be able to see you. But I'm going to do whatever I can to speak up, especially for the elderly.

Thank you.

JARRETT: Thank you, Sir. Any questions? Representative Hobbs.

HOBBS: I just want to thank you for — what time did you get here this morning? You were here when I walked in.

TUMLIN: Right around 10.

HOBBS: You've been here a long time. I want to thank you, both of you, for your patience.

It brings kind of home that old saying, “we’re from the government, and we’re here to help you.”

TUMLIN: Thank you. I just feel that it’s just that important. Let me add one more thing and I have to say I’m hesitant on saying this. But I have to be honest. We’re dealing with an issue here that is truly life and death. My fear and my concern is that somebody’s going to get hurt. I really don’t want to put that on you all but I want to let you all know that there are people that were in this room today as well as people that are not here that enough is enough. I fear that some elected officials are going to get hurt because of what they’re doing. And so whatever I can do to stop that, I want to do it.

Thank you.

JARRETT: Thank you very much. Any other questions? Thanks.

Next is Amanda Curtis.

SPEAKER FROM AUDIENCE: I think she went home already.

JARRETT: Alright. How about Alma Jean Nelson? Claire Kramer?

SPEAKER FROM AUDIENCE: She’s gone.

JARRETT: Well that’s the last on the list.

ROOS (speaking from audience): Can I just say one thing very brief? Barbara Geisman was asked by the Comptroller’s Office in the city of St. Louis to spare the Eads building. You have a copy of that letter in your packet. And we asked — the comptroller, you know, writes the checks that are issued in our city. So I thought, well, what if we could get the comptroller not write a check just to take this building. (inaudible) So I asked them to look at this project and she has her assistant look at it. Wrote a letter to the mayor and said we see no discernable reason why this property should be taken. It looks fine. And then the mayor, under Barbara Geisman, wrote back saying,

excuse me — you have that letter to — “that the property did not fit together cohesively”. That’s its problem. It did not fit together cohesively. It’s been there 100 years and didn’t fit together cohesively. That’s how extreme this can be. You know, the comptroller tries to get the mayor’s office to not let our building be taken and that’s their explanation for taking it.

JARRETT: Thank you. Well that concludes our public testimony.

DONNA HACKMANN: I was wondering if I might say a word. I wasn’t able to get my name down on the paper.

JARRETT: Sure. If you would come forward and state your name.

HACKMANN: Yes. I’m not prepared, actually. I didn’t know I’d be coming up front. But there were some things said that I’d like to have

JARRETT: Your name, please.

HACKMANN: My name is Donna Hackman and I am from Chamois, Missouri. I have a lot of feelings for the people in this room that are also from St. Louis because I was raised in St. Louis and I lived there until I was 29 years old. My husband and I moved to a farm and we thought that would be a great place to raise our children and it has been. As a matter of fact, I’m probably older than the majority of everybody on this council. Some of you actually look a little like my children. Those two over here do. We have five. We’ve worked extremely hard. Which I think anybody would know that has a farm.

In 1971 is when we bought the first farm. In 1993 we bought an adjacent farm to the property that we already had. On this property is where AmerenUE is putting up, well, they already have the power lines up.

The reason I came up here is because when Mr. Douglas was up here and he was so proud

of the fact that there were only three people among all the people that are part of the land that's being impeded on from this power line, I don't know why he should be so proud of that fact because I have talked to many, many of these people and the reason that they don't fight is how can you fight a billion dollar company or multi-million company? We're only farmers. We're only land owners. We're only people that own a little house. We're old. We're this, we're that. We're afraid to fight.

When I first when up to — I heard that there was meeting in Linn, Missouri, and when I drove up there, it was more curiosity than anything and I thought, well, if progress needs to be made, it needs to be made. I'm all for progress. But I'm not for, in my feelings, stealing from the people and that is what this is.

Our farm, not only the farm that the power line is going on is now in condemnation, but they also attached the other farm and put condemnation on it also because the property lines touch. Even though they were bought, what? twenty, thirty years apart from each other. When I went up there and I heard them actually say that this power, these lines, were not really for the people of Missouri, I think maybe seven percent like Mr. McDaniel said.

Also, I went to almost every meeting that there was. I was involved in the hearing with Public Service Commission. The two days, I was there. There were things said there, under oath, that I can't even repeat here because, well, it can't be repeated. And, also what we were told is their idea, their plan is that Missouri will become the state with the most grids in it for power to go to other states. And when it was brought up that the power, you know, that they had problems with electric blackouts or whatever, it came out that the reason that there was this problem was not because of the usage in Missouri, it was the usage that was coming from Illinois into Missouri that they had bought into Missouri.

So this is strictly, in my opinion and other people's opinion of importance, that this line is being put in for the profit of a private company. AmerenUE is a private company. They have stockholders and everything else.

Now as far as this condemnation. Ameren got a hold of us one time. There was one phone call made to us. This was an involvement now over four years — or around four years. And I told the man, yes, I'll meet with you. I met with him. We discussed everything. He showed me the same contract that Mr. McDaniel gave you guys to look at and they had an appraiser come to our place, which we knew nothing about, and we were told what our property was worth. And we were told that we would get half of that property value. And we were pretty much told that, basically, you'll like it.

Now, I talked to this man for quite a while. But I took — my husband was going to retire after 45 years on the job. His job took him away a great majority of the time. With the five kids and myself, we ran a cattle farm while he was off making — anybody that farms knows that you have to have other income besides just farming. I lost my train of thought. I wish I had everything written down. It's a lot easier. But, I told him, I said, I cannot make any decisions on my own. You have to talk to my husband, after all, we both own this property. Yes, ma'am, oh, yes, absolutely. We will contact you. And I said, is there a date? And he set up the date of January 4. January 4 came — the third, the fourth, the fifth, we stayed home. And we heard nothing. For close to two months we heard nothing. We didn't know what to do. We didn't know what was going on. We had no contact with them. None.

So then we got a letter from Rudy Viet, from up here. And some of you may know who he is. It's a lawyer up here. And he had sent it out to all the people that were with this Concerned

Citizens. And I told my husband, I don't know what we're supposed to do next. Because we don't know the ins and outs of all this legal stuff. And I said maybe this is the way we should go. When we hired him, then Ameren called me. And he basically said to me, you know, that he's from Ameren and I said, well, I don't know what to tell you. I said we had to hire a lawyer. We didn't know who to talk to. Okay. Hung up. Next thing we know. Our property is condemned. Both properties. And what they were saying was that we wouldn't talk to them. And it came up in front of the commissioners and their lawyer got up and said how Mr. and Mrs. Hackmann would not talk with them, wouldn't do anything with them, yada, yada, yada,you know how, they tried everything. There was basically this type of conversation went on and I just stood up and I said, no, I said that is not true.

And, so, at the end of the hearing with the commissioners, I was lucky to be able to talk to them and tell them exactly what happened. Of course, their lawyers said my emotion spiel — well, you know I get real emotional when someone is trying to take my land. I get very emotional if someone is trying to do something to my children or take my land. This is something that we sacrificed for. We worked very hard for. I've worked in the fields right along with the men and, believe me, it wasn't easy. And someone just comes in and tells you this stuff.

And the lines are up. Once the property has gone before the commissioners and there's an "X" amount of dollars set which is I think it's at the courthouse. I don't know who has it. But once that's set, then they have the right to come on your property and do as they wish and that's what they've done.

All the poles are up. We have — there's 165,000 volt line that's there now. And they're putting up a 345,000 volt line that is, our part is done, on our property and it's ready to go. The

165,000 volt line, there's times — our house right now is about maybe one-half a mile away from this line. And there's times I can hear it now. I don't know what we're going to be hearing when there's 345,000 volts plus the 165,000 volts of a line that isn't even needed. But it will be a huge profit to AmerenUE. This is going out to other states.

And they also said during the trial, if you'd call it a trial or hearing, they also said that the people of Missouri will pay for it with their higher rates. So, I mean, they make everything sound like they are so genteel. They're so smooth. Well we can't be that smooth because we do get emotional about it. They're not losing their land. They're not having people come and tell them we're taking this and we're taking that. And then get up in front of people like you and, to me, you know I raised my kids you're not supposed to lie. Well, that's pretty much what I call it. Some of the things that I've heard.

I'm going to have to stop now because I know everybody wants to go home. It's just not right. The things that they are doing. If I could have had time to write out a better thing, I'd cover everything. But, because I have gone in front of panels before and senators and this and that and everything. But I was prepared. I wasn't so prepared today. But I can't let somebody sit and say these things about us when it is just not true. And he can go ahead and be proud of the three people who decided to fight and decided to hang in there, even though we were pulled into it by non-communication on their part with us other than the one time, one time, in now, four years.

We can just sit and wait now and our property's condemned and we can sit and wait. And we're at their discretion pretty much as to how long it's going to take and what's going to happen. So I think like the gentleman here said, it's up to you. It really is up to everyone here on this panel. I hope I can find out that these young people right here and the rest of you. Like I say, I'm older than

most, maybe the gentleman here I'm not but....but I would venture to say that I probably am older than all of you here and I just cannot think that the values that I have taught my children who, by the way, are very good citizens, I wish I could tell you what some of them do, it's great.

But I just can't believe....I have so many people that say to me, they can't do that, this is America. They can't do that to my property. Wait a minute, I can't fight them, I really don't have the resources. But they can't do this. It's against the law. It's not the Constitution. I said, yes they can and they're doing it all across this country.

But I do have to admit that there wasn't as much response as far as what people were willing to do until the Supreme Court did what they did. And, all of a sudden, it's like, well wait a minute, if I should buy a business, can somebody come take it? So forth like this. It's — they said, well is that communism? Is that socialism? I've got little children asking me this stuff. I don't know what to say to them. Not any more. It's up to you. It's up to you people here. All the stories that were said here. It's not something to go home and think, well, what's on television tonight.

JARRETT: I need to ask you to wrap up if you would, ma'am. I'm sorry. Thank you.

HACKMANN: I do get going. I will. But please, please know that it isn't just something that's here in this room. This is across this nation and this isn't something to go home, well, I've got to make supper. I got to do this. I've got to do that. Think about it when you're laying in bed tonight. Think about it when you're shaving in the morning. This is a very, very important subject. It needs to be taken care of. I thank you very much for your time.

JARRETT: Thank you. And let me say, if you want to write down your thoughts, please do that and get that to us. We'll be happy to put that in the record. Thank you very much. Any questions? Steve.

HOBBS: One real quick one. You were mentioning that after the condemnation process has gone through that not only did they put an easement on your property but they also attached your adjoining property also.

HACKMANN: The adjoining property when they condemned our property, they condemned both farms and it's because the one farm lays next to the other farm. They condemned them both.

HOBBS: Is there any plans for that line to go through there — that line's not going on that adjoining property.

HACKMANN: No. No.

HOBBS: Because I've been visiting with AmerenUE as I've worked through my legislation in the past and they've assured me that only easements they take are very site-specific because they don't want to have to pay for one penny more of ground than what they need and they don't want to be intrusive. So that really concerns me when I hear you talk about because its condemned it's added.

HACKMANN: Alright. You are talking about an easement. The easement is one thing. But they have condemned both farms. They are condemned.

HOBBS: Are they taking both whole pieces of land or are they taking, using condemnation for the easement of your property?

HACKMANN: The lawyer told us that both farms are condemned.

HOBBS: But that's for the easement that they're going to use on that property.

HACKMANN: The easement is only on one corner of the farm we bought '93.

HOBBS: Okay. That's what....

HACKMANN: But they are both condemned.

HOBBS: They are both in that condemnation.

HACKMANN: They are both in this process. Both farms. And I asked about that numerous times. And they said, well, they look at a map and since both farms are side by side it just looked like it's all both this one farm. I said it's not. I said these are two separate farms, bought years apart from each other. But they are still both under condemnation.

HOBBS: Okay. Thank you very much.

JARRETT: Well, thank you.

Task Force Discussion

Following the public testimony, the task force discussed the next meeting. It was decided that they would divide into working groups to discuss the four topics of those groups: Urban, Rural, Legislative, and Procedural. Once the working groups have finished their discussions, the task force will reconvene. The next meeting is scheduled for 10:00 a.m., September 1, 2005, in House Hearing Room 7.

The meeting was adjourned.